1–13–94
Vol. 59 No. 9

federal register

Thursday
January 13, 1994

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

1–13–94
Vol. 59 No. 9
Pages 1889–2280

federal register

Thursday
January 13, 1994

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and 24x microfiche format. The annual subscription price for the **Federal Register** paper edition is $444, or $490 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $403. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $6.00 for each issue, or $6.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 59 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Assistance with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Assistance with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 59, No. 9

Thursday, January 13, 1994

Agricultural Marketing Service
RULES
Meats, prepared meats, and meat products:
Meat grading and certification services; fee increases; correction, 1890
Onions (Vidalia) grown in Georgia, 1894–1896

Agriculture Department
See Agricultural Marketing Service
See Food and Nutrition Service
NOTICES
Agency information collection activities under OMB review, 1924

Centers for Disease Control and Prevention
NOTICES
Diseases transmitted through food supply; annual update, 1949
Recombinant proteins and synthetic peptides, antigenic epitopes immunodiagnostic reagents Hepatitis C virus antibodies detection use; license availability, 1949–1950

Coast Guard
PROPOSED RULES
Vessels; small passenger vessel inspection and certification, 1994–2213

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Mauritius, 1935–1936

Commodity Futures Trading Commission
RULES
Foreign futures and foreign options transactions:
Sydney Futures Exchange limited—
Overnight option contracts on 10 year Australian Bond, etc., for persons in United States, 1915–1917

Customs Service
RULES
Petitions by domestic interested parties:
Frozen produce packages; country of origin marking; correction, 1992
Vessels in foreign and domestic trades:
Vessels, vehicles, and individuals; reporting requirements Correction, 1918

Education Department
NOTICES
Meetings:
Education Statistics Advisory Council, 1936

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Central Neutralization Facility, Oak Ridge, TN, 1936–1937
Sanitary Water Treatment Plant, Oak Ridge, TN, 1937
Natural gas exportation and importation:
Catex Vitol Gas, Inc., 1938
DGS Trading Inc., 1938
Distrigas Corp., 1938
Enron Gas Marketing, Inc., 1938
Great West Energy Inc., 1938–1939
Mobil Natural Gas Co., 1939
Mobil Natural Gas Inc., 1939
TransTexas Gas Corp., 1939

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Coke oven batteries; correction, 1992
Toxic substances:
Testing requirements—
Chloroethane, etc. (drinking water contaminants); correction, 1992
PROPOSED RULES
Air programs:
Architectural and Industrial Maintenance Coatings Negotiated Rulemaking Advisory Committee, 1923
NOTICES
Meetings:
Effluent Guidelines Task Force, 1944
Science Advisory Board, 1944–1945
Municipal solid waste landfill permit programs; adequacy determinations:
Washington, 1945–1947

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 1931

Export Administration Bureau
NOTICES
Foreign availability assessments:
Telecommunications transmission equipment, 1924–1925

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus Industrie, 1903–1904
Beech, 1904–1906
Boeing, 1906–1907
Canadair, 1913–1915
Enstrom Helicopter Corp., 1907–1909
McDonnell Douglas, 1910–1912
SAAB-Scania, 1909–1910
Societe Nationale Industrielle Aerospatiale et al., 1912–1913

Federal Energy Regulatory Commission
RULES
Practice and procedure:
Electronic filing of FERC Form No. 1 and delegation to Chief Accountant, 1917–1918
NOTICES
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 1943
CRSS Power Marketing, Inc., 1943
Mississippi River Transmission Corp., 1943
Texas Gas Transmission Corp., 1944

Federal Financial Institutions Examination Council
RULES
Freedom of Information Act; implementation:
Appraiser regulation, 1900–1903

Federal Maritime Commission
PROPOSED RULES
Maritime carriers in foreign commerce:
Anticompetitive agreements; injunction authorization, 1923

Federal Reserve System
PROPOSED RULES
Truth in Savings (Regulation DD):
Annual percentage yields calculation, 1921
NOTICES
Agency information collection activities under OMB review, 1947
Applications, hearings, determinations, etc.:
National City Corp., 1947–1948

Federal Retirement Thrift Investment Board
RULES
Thrift savings plan:
Judges, justices, and magistrates; investment restrictions removed, 1889–1890

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 1969

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Starch, pregelatinized, 1918–1919
Trichlorofon and phenothiazine powder, 1919
NOTICES
Animal drugs, feeds, and related products:
New drug applications—
Shulcon Industries, Inc.; approval withdrawn, 1950
TPC Products, Inc.; approval withdrawn, 1950–1951

Food and Nutrition Service
RULES
Child nutrition programs:
National school lunch, school breakfast, and special milk programs—
Coordinated review effort, 1890–1894

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Georgia
Merck & Co.; pharmaceutical plant, 1925–1926
Ohio
Greater Cincinnati Foreign Trade Zone, Inc.; relocation and expansion, 1926
Texas
Dallas/Fort Worth International Airport Board; zone expansion, 1926–1927

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration

Health Care Financing Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Health care financing research and demonstration program, 1951–1968

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 1939–1942
Decisions and orders, 1942–1943

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Flexible subsidy program—
Operating assistance and capital improvement loan components, 2270–2277
Public and Indian housing—
Homeownership program (HOPE 1), 1968–1969

Immigration and Naturalization Service
RULES
North American Free Trade Agreement (NAFTA):
Temporary entry of business persons; facilitation; correction, 1992

Indian Affairs Bureau
RULES
Human services:
Indian Child Welfare Act; discretionary grant process; changes, 2248–2267
NOTICES
Irrigation projects; operation and maintenance charges:
Wind River Irrigation Project, WY, 2280

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Circular welded non-alloy steel pipe from—
Brazil et al., 1929–1934
Color negative photographic paper and chemical components—
Japan et al., 1927
Corrosion-resistant carbon steel flat products from—
Canada, 1927–1928
Defrost timers from—
Japan, 1928–1929
Countervailing duties:
Textiles and textile products from—
Argentina, 1934

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Laurinburg Oil Co., 1969

Justice Department
See Immigration and Naturalization Service
RULES
Practice and procedure:
Matters before Immigration Judges, deportation proceedings, and attorney and representative disciplinary proceedings, 1896–1900

National Credit Union Administration
NOTICES
Meetings
Sunshine Act, 1991

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Ford Motor Co., 1988–1989
Uniroyal Goodrich Tire Co., 1989–1990

National Oceanic and Atmospheric Administration
NOTICES
Fishery conservation and management:
Atlantic striped bass; 1992 survey, 1934–1935

National Science Foundation
NOTICES
Meetings:
Advanced Scientific Computing Special Emphasis Panel, 1970
Biological Sciences Special Emphasis Panel, 1970
Chemistry Special Emphasis Panel, 1970
Mechanical and Structural Systems Special Emphasis Panel, 1970–1971

Nuclear Regulatory Commission
RULES
Radiation protection standards:
Removal of expired material
Correction, 1900
NOTICES
Meetings:
Nuclear Waste Advisory Committee, 1971
Reactor Safeguards Advisory Committee, 1971
Applications, hearings, determinations, etc.:
American Testing & Inspection, Inc., 1971–1972
Tennessee Valley Authority, 1972

Patent and Trademark Office
NOTICES
Economic aspects of U.S. patent system; hearings and comment request, 1935

Personnel Management Office
NOTICES
President's Pay Agent; locality pay rates; salary tables, 2216–2246

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
Poland, ME, 1973

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 1991
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 1973–1979
National Association of Securities Dealers, Inc., 1979–1981
Pacific Stock Exchange, Inc., 1981–1984
Applications, hearings, determinations, etc.:
PIC Investment Trust, et al., 1984–1985
Public utility holding company filings, 1985–1988

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Indiana; correction, 1919–1920
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 1921–1923

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Hearings, etc.—
AirTrain Corp., 1988

Treasury Department
See Customs Service
NOTICES
Agency information collection activities under OMB review, 1990

Separate Parts In This Issue

Part II
Department of Transportation, United States Coast Guard, 1994–2213

Part III
Office of Personnel Management, 2216–2246

Part IV
Department of Interior, Bureau of Indian Affairs, 2248–2267

Part V
Department of Housing and Urban Development, 2270–2277

Part VI
Department of Interior, Bureau of Indian Affairs, 2280

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board

Free Electronic Bulletin Board service for Public Law numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
1620.....1889

7 CFR
54.....1890
210.....1890
215.....1890
220.....1890
955.....1894

8 CFR
3.....1896
103.....1896
212.....1992
242.....1896
292.....1896

10 CFR
20.....1900
34.....1900

12 CFR
1102.....1900

Proposed Rules:
230.....1921

14 CFR
39 (9 documents).....1903, 1904, 1905, 1906, 1907, 1909, 1910, 1912, 1913

17 CFR
30.....1915

18 CFR
375.....1917

19 CFR
4.....1918
123.....1918
175.....1992

21 CFR
510 (2 documents).....1918, 1919
520 (2 documents).....1918, 1919

25 CFR
23.....2248

30 CFR
914.....1919

Proposed Rules:
917.....1921

40 CFR
63.....1992
799.....1992

Proposed Rules:
Ch. I.....1923

46 CFR

Proposed Rules:
114.....1994
115.....1994
116.....1994
117.....1994
118.....1994
119.....1994
120.....1994
121.....1994
122.....1994
123.....1994
124.....1994
125.....1994
126.....1994
127.....1994
128.....1994
129.....1994
130.....1994
131.....1994
132.....1994
133.....1994
134.....1994
135.....1994
136.....1994
137.....1994
138.....1994
139.....1994
170.....1994
171.....1994
173.....1994
175.....1994
176.....1994
177.....1994
178.....1994
179.....1994
180.....1994
181.....1994
182.....1994
183.....1994
184.....1994
185.....1994
571.....1923
572.....1923

Rules and Regulations

Federal Register
Vol. 59, No. 9
Thursday, January 13, 1994

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1620

Removal of Investment Restrictions for Judges, Justices, and Magistrates

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing amendments to interim regulations on participation in the Thrift Savings Plan (TSP) by certain justices, judges, and magistrates. These amendments reflect the provisions of the Thrift Savings Plan Technical Amendments Act of 1990, which removed a previously existing requirement that these judges, justices, and magistrates invest their entire TSP accounts in the Government Securities Investment Fund (G Fund). The amendments conform part 1620 with the provisions of 5 CFR part 1601, which also provide that such judges, justices, and magistrates may now invest in all three TSP investment funds in a manner similar to participants covered by the Civil Service Retirement System (CSRS).

DATES: Effective Date: These interim rules are effective on January 13, 1994. Comments: Comments must be received on or before March 14, 1994.

ADDRESSES: Comments may be sent to: David L. Hutner, Federal Retirement Thrift Investment Board, 1250 H Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: David L. Hutner, (202) 942–1661.

SUPPLEMENTARY INFORMATION: With respect to choice of Thrift Savings Plan (TSP) investment funds, judges and justices covered by 5 U.S.C. 8440a (added by the Federal Employees Health Benefits Amendments Act of 1988, Public Law 100–654, November 14, 1988) and bankruptcy judges and magistrates covered by 5 U.S.C. 8440b (added by the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, Public Law 100–659, November 15, 1988) are subject to the same rules as those applicable to participants covered by the Civil Service Retirement System (CSRS). At the time of enactment of 5 U.S.C. 8440a and 5 U.S.C. 8440b, CSRS employees were required to invest their entire TSP account balances in the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A). Thus, justices, judges and magistrates covered by those provisions were similarly limited to investment in the G Fund. The restrictions were reflected in the regulations at 5 CFR 1620.83(c) and 5 CFR 1620.72(d), which provided that new TSP contributions by participants covered by 5 U.S.C. 8440a and 5 U.S.C. 8440b, respectively, must be invested in the G Fund; and in the regulations at 5 CFR 1620.84 and 5 CFR 1620.73, which provided that the accounts of participants invested in the C or F Funds prior to becoming covered by 5 U.S.C. 8440a or 5 U.S.C. 8440b, respectively, shall, upon the participant becoming so covered, be transferred entirely to the G Fund.

The requirement that CSRS participants invest their entire TSP accounts in the G Fund was eliminated by amendments to 5 U.S.C. 8438 contained in section 3 of the Thrift Savings Plan Technical Amendments Act of 1990, Pub. L. 101–335, July 17, 1990. The lifting of the investment restrictions was made effective as of the second TSP election period commencing after enactment, or such earlier date as prescribed in regulations by the Executive Director. The Executive Director issued regulations, published in the **Federal Register** on January 7, 1991, implementing the removal of the investment restrictions effective as of December 31, 1990. Those regulations, found at 5 CFR part 1601, provided that the lifting of the investment restrictions applied to participants covered by 5 U.S.C. 8440a and 5 U.S.C. 8440b, and that such participants could invest their TSP accounts in all three TSP investment funds in the same manner as other TSP participants. The present amendments, by deleting the investment restrictions previously contained in 5 CFR 1620.72(d), 1620.73, 1620.83(c), and 1620.84, conform the provisions of part 1620 with the regulations implementing Public Law 101–335 that resulted in the elimination of the investment restrictions previously applicable to participants covered by 5 U.S.C. 8440a and 8440b.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking

Pursuant to 5 U.S.C. 553(b)(B), I find that because of the need for TSP participants to be fully advised of their statutory investment options, good cause exists for waiving the general notice of proposed rulemaking.

List of Subjects in 5 CFR Part 1620

Employee benefit plans, Government employees, Retirement, Pensions.

Federal Retirement Thrift Investment Board.

Francis X. Cavanaugh,
Executive Director.

Part 1620 of chapter VI of title 5 of the Code of Federal Regulations is amended as set forth below:

PART 1620—[AMENDED]

1. The authority citation for part 1620 continues to read as follows:

Authority: 5 U.S.C. 8474, 5 U.S.C. 2101.

§ 1620.72 [Amended]

2. Section 1620.72 is amended by removing paragraph (d).

§ 1620.73 [Removed]

3. Section 1620.73 is removed and §§ 1620.74, 1620.75, and 1620.76 are redesignated as §§ 1620.73, 1620.74, and 1620.75.

§ 1620.83 [Amended]

4. Section 1620.83 is amended by removing paragraph (c).

§ 1620.84 [Removed]

5. Section 1620.84 is removed and §§ 1620.85 and 1620.86 are redesignated as §§ 1620.84 and 1620.85.

[FR Doc. 94–861 Filed 1–12–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 54

[No. LS–93–006]

RIN 0581–AB07

Changes in Fees for Federal Meat Grading and Certification Services; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule; correction.

SUMMARY: This document contains a correction to an interim final rule which revised the hourly fee rates for voluntary Federal grading and acceptance services.

EFFECTIVE DATE: This correction is effective December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification Branch, (202) 720–1246.

SUPPLEMENTARY INFORMATION: This rule was published in the **Federal Register** on December 9, 1993 (58 FR 64669). The "**DATES:**" section on page 64669, in the first column, is corrected to read as follows:

DATES: Interim rule effective December 9, 1993. Comments must be received on or before February 7, 1994.

Dated: January 5, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–883 Filed 1–12–94; 8:45 am]

BILLING CODE 3410–02–P

Food and Nutrition Service

7 CFR Parts 210, 215 and 220

National School Lunch Program, Special Milk Program for Children and School Breakfast Program: Finalization of Coordinated Review Effort Interim Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On July 17, 1991, the Department published a final rule in the **Federal Register** which set forth the Coordinated Review Effort, a unified accountability system required by the Child Nutrition and WIC Reauthorization Act of 1989. On August 26, 1992, the Department published an interim rule in the **Federal Register** which became effective on September 25, 1992, and which modified a number of provisions contained in the 1991 final rule. This rulemaking responds to the comments received during the interim rule comment period and adopts as final, with changes, the provisions which were set forth in the August 26, 1992 interim rule. These revisions are a part of the Coordinated Review Effort and are intended to facilitate the review activities of the State agencies.

EFFECTIVE DATE: February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie or Charles Heise, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, 3101 Park Center Drive, room 1007, Alexandria, Virginia 22302, Phone: 703–305–2620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule is issued in conformance with Executive Order 12866.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Acting Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect State agencies and school food authorities since this rule is expected to clarify regulatory requirements and facilitate the review activities of State agencies. However, the effect of these modifications will not be significant since State agencies and school food authorities already conduct review activities under the Coordinated Review Effort and this rule will not increase their current Coordinated Review Effort activities.

The National School Lunch Program, Special Milk Program for Children and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.566, and 10.553, respectively, and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and final rule-related notice at 48 FR 29112, June 24, 1983.)

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "**EFFECTIVE DATE**" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the National School Lunch Program, the administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of a Coordinated Review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q); (2) school food authority appeals of FNS findings as a result of a Coordinated Review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow the FNS Administrative Review Process as established pursuant to 7 CFR 235.11(f).

Information Collection

The reporting and recordkeeping requirements identified in this rule have been approved by the OMB for use through September 30, 1994. The OMB control number is 0584–0006.

Background

Legislative History

Section 110 of Public Law 101–147, enacted November 10, 1989, amended the National School Lunch Act (42 U.S.C. 1751–1769c) by adding a new section 22 which states: "There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this Act comply with the provisions of this Act * * *. [E]ach State educational agency shall—(A) require that local food service authorities comply with the provisions of this Act; and (B) ensure such compliance through reasonable audits and supervisory assistance reviews. * * * In carrying out this section, the Secretary shall—(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and (2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this Act * * *."

Regulatory History

On July 17, 1991, the Department published a final rule in the **Federal Register** (56 FR 32920) which set forth the Coordinated Review Effort, a unified accountability system required by the Child Nutrition and WIC Reauthorization Act of 1989. On August 26, 1992, the Department published an interim rule in the **Federal Register** (57 FR 38579) which modified a number of provisions contained in the July 17 final rule. The interim rulemaking was effective on September 25, 1992 and provided for a 60-day comment period which ended on October 26, 1992. Fifty-four comments were received during the comment period. The Department would like to take this opportunity to thank those individuals who commented on the interim rulemaking. It was clear that commenters put a great deal of effort in describing their concerns and offering their suggestions. The Department is most appreciative of that effort. This final rule responds to the comments received during the interim rule comment period and restates, as appropriate, the provisions set forth in the interim rule. The provisions set forth in the interim rule:

- Implementation Dates—Authorized FNS to approve a State agency's written request showing good cause to delay implementation of the Coordinated Review Effort from July 1, 1992 to January 1, 1993. (§ 210.18(a))
- Residential Child Care Institutions—Excluded residential child care institutions from the 100/100 school selection criteria. (§ 210.18(e))
- Application Review Procedures—Allowed State agencies the option of reviewing (a) all approved free and reduced price applications effective for the review period (as required in the July 17, 1991 final Coordinated Review Effort rule) or (b) all approved free and reduced price applications back to the beginning of the school year, or (c) all approved free and reduced price applications effective on the day(s) the review is conducted. (§ 210.18(g))
- Notice of Fiscal Action or Withholding Payment—Required State agencies to advise school food authorities in writing of the grounds for denial of all or a part of a Claim for Reimbursement or withholding of payment resulting from a review conducted under § 210.18 and of the appeal rights available to affected school food authorities. (§ 210.18(j))
- Withholding Payment—Limited mandatory withholding of payments on a follow-up review. Specifically, the interim rule limited mandatory withholding of all Program payments to those school food authorities with critical area violations which exceed review threshold(s). In addition, the interim rule required the withholding of a minimum of 10 percent of Program payments where serious problems continue to exist in either of two aspects of the general areas of review, verification and recordkeeping. (§ 210.18(l))
- Withholding Payment Exception—Allowed State agencies to reduce the amount withheld from a school food authority which fails to take corrective action by as much as 60 percent of the total Program payments when it is determined to be in the best interest of the Program. Withholding less than 40 percent would continue to require the approval of FNS. (§ 210.18(l))
- Fiscal Action—Allowed State agencies to limit fiscal action from the point corrective action occurs back through the beginning of the review period for errors of certification, issuance of benefits and updating eligibility status identified on an administrative review, provided corrective action occurs. (§ 210.18(m))
- Administrative Appeal Process—Established an administrative appeal procedure which allows school food authorities the opportunity to appeal the denial of all or a part of a Claim for Reimbursement or withholding of payments which result from a review required under § 210.18. (§ 210.18(q), § 210.30(d), § 215.11(b)(2), and § 220.13(f)(2))
- Overpayment Disregard—Allowed FNS, the Department's Office of Inspector General and State agencies to disregard any overpayment identified by management evaluations, reviews or audits if the total, in any fiscal year, does not exceed $600. (§ 210.19(d), § 215.13(e) and § 220.15(f))

Commenter concerns, corrections and revisions addressed in this rulemaking are discussed in this preamble by the pertinent regulatory citation.

Section 210.18(a) Implementation Dates

Section 210.18(a), *Implementation dates*, of the interim rule, authorized FNS to approve a State agency's written request to delay implementation of the Coordinated Review Effort from July 1, 1992 to January 1, 1993 if FNS determined that the State agency demonstrated good cause to delay implementation.

Nineteen commenters to the interim rule expressed concerns regarding the start of the staggered review cycles which resulted from the delayed start option. In general, commenters sought to standardize the review cycle so that all State agencies are on the same cycle. A number of beginning and ending dates were suggested; however, there was no consensus of opinion.

Two commenters, on behalf of the same State agency, requested that FNS allow a 5-year review cycle for those State agencies which review all other school related programs on a 5-year cycle.

The Department concurs that a standardized cycle of review is in the best interest of the Program. To protect the interests of both those State agencies beginning on July 1, 1992 and of those beginning on January 1, 1993, the Department has determined to extend the first year of the first 4-year cycle. Thus, paragraph (a) is unchanged and the first sentence of introductory paragraph (c) has been revised to read: "The first year of the first 4-year review cycle began on July 1, 1992, or as otherwise authorized under paragraph (a) of this section and shall end on June 30, 1994. For each State agency, the first 4-year review cycle shall end on June 30, 1997."

Given the commenter concerns regarding standardization of the review cycle in this final rule, the Department has determined to retain the 4-year cycle, thus making no provision for the 5-year cycle sought by two commenters. However, the Department will continue to consider this issue for possible future revision.

Section 210.18(e) Residential Child Care Institutions

Section 210.18(e), *Number of schools to review*, as amended by the interim rule, limited the number of multi-site residential child care institutions a State agency needs to review to the minimum number identified in Table A. Paragraph (e)(1) of the interim rule stated "Except for residential child care institutions, the State agency shall review all schools with a free average daily participation of 100 or more and a free participation factor of 100 percent or more. In no event shall the State agency review less than the minimum number of schools in Table A." (Table A was not changed.)

Generally, residential child care institutions are single unit institutions; however, in some cases, the residential child care institution has a number of units that report to a single governing body, (e.g., State administered juvenile detention centers). The term "multi-site residential child care institution" is intended to refer to those institutions which have a number of units that report to a single governing body.

Six commenters to the interim rule, all representing State agencies, addressed this provision. All were in

complete support of the interim provision to limit the number of multi-site residential child care institutions a State agency needed to review to the minimum number identified in Table A. For this reason, the provisions set forth in paragraph (e)(1) of the interim rule are adopted without change.

Section 210.18(g) Application Review Procedures

Section 210.18(g), *Critical areas of review*, as amended by the interim rule, expanded the methodology for the review of the free and reduced price applications. Rather than limiting the review of the free and reduced price applications to those applications effective for the review period, paragraph (g)(1) of the interim rule allowed the State agency to review (a) all approved free and reduced price applications effective for the review period; or (b) all approved free and reduced price applications back to the beginning of the school year; or (c) all approved free and reduced price applications effective on the day(s) the review is conducted.

Thirteen commenters addressed this provision of the interim rule. Virtually all commenters were supportive of this provision; however, a number of commenters requested expanding the provision to include specific procedures to facilitate implementation of this provision. Some commenters questioned implementation of this provision, as well as what is meant by "statistically valid sample" and how potential reclaims (overpayment of Federal funds) would be calculated. Some commenters were confused about references to an abbreviated application provision and whether it became effective on September 25, 1992, as did the other provisions of the interim rule.

This final rule leaves unchanged the provisions of paragraph (g)(1) as presented in the interim rule. The Department would like to assure commenters that instructions for implementation of this provision, for implementation of the statistical sampling provision and for information on how to calculate potential reclaims are addressed in the guidance materials prepared for the Coordinated Review Effort. These materials were developed by FNS, with the help of State agency and local personnel. The materials were distributed to State agencies in the Spring of 1993. Thus, all of the questions raised by commenters can be resolved through reference to these materials.

The Department would like to take this opportunity to clarify a misunderstanding regarding an abbreviated review of the free and reduced price applications. The development of procedures which would enable State agencies to conduct an abbreviated review of free and reduced price applications is currently underway. However, it is the Department's position that these procedures would benefit from the solicitation of public comment. Thus, the Department is also developing a proposed rulemaking which will set forth the proposed procedures and request comments from the public. Since the Department intends to pursue a proposed rulemaking, these procedures will not become effective until such time as the proposal is issued, comments are received and analyzed, and a final rule is published in the **Federal Register**.

Section 210.18(j) Notice of Fiscal Action or Withholding Payment

Section 210.18(j), *Exit conference and notification*, as amended by the interim rule, required the State agency to notify school food authorities in writing of the grounds for denial of all or a part of a Claim for Reimbursement resulting from a review conducted under § 210.18. The notice, "which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the school food authority may appeal the denial of all or a part of a Claim for Reimbursement or withholding payment and the entity (i.e., FNS or State agency) to which the appeal should be directed."

Only one commenter, a State agency, addressed this provision. While agreeing that the information should be made available to the school food authority, the commenter observed that the information could be provided at the entrance or exit conference. Requiring a certified letter was seen as "overkill".

Since only one commenter found these provisions burdensome, the Department leaves unchanged the provision as set forth in the interim rule. The Department believes the "certified" letter requirement is necessary to document that the State agency has met the required timeframes.

Section 210.18(l)(1) Withholding Payment

Section 210.18(l)(1), *Withholding payment*, as amended by the interim rule, limited the mandatory withholding provision to those school food authorities with critical area violations which exceed the review threshold(s) and/or where serious problems continue to exist in either of two aspects of the general areas of review, verification and recordkeeping. In addition, rather than withholding all Program payments for serious violations of the verification or recordkeeping requirements, paragraph (l)(1)(iv) required the State agency to withhold a minimum of 10 percent of the Program payments if the State agency finds, on a follow-up review, that serious problems continue to exist in the school food authority's verification or recordkeeping activities.

Of the 13 commenters addressing this provision, two commenters disapproved of withholding payment for any reason whereas one commenter approved of the interim rule provision. Other commenters offered suggestions to modify the interim provisions. For example, four commenters suggested limiting mandatory withholding to critical areas, one commenter suggested limiting mandatory withholding for both the critical and general areas to 10 percent of the Program payments, and one commenter suggested withholding only those payments related to critical area violations in the specific schools which caused a threshold to be exceeded.

Several commenters opposed the 10 percent withholding provision because it was perceived as burdensome and too complex to administer. Commenters argued that more guidance will be needed to implement this provision. Two commenters asked for a definition of "serious problems".

This final rule limits the mandatory withholding provision to those school food authorities with critical area violations which exceed the review threshold(s). State agencies are encouraged to withhold payments for serious problems in the areas of verification and recordkeeping; however, the mandatory minimum withholding for serious verification and recordkeeping problems has been removed.

Section 210.18(l)(3) Withholding Payment Exception

Section 210.18(l)(3), *Exceptions*, as amended by the interim rule, allowed the State agency to withhold as little as 40 percent of total program payments. To withhold less than 40 percent continued to require the approval of FNS.

Of the three commenters addressing this provision, two commenters supported the flexibility of this provision and one commenter argued that withholding 40 percent is too burdensome and too complex to administer. It was suggested that where funds for an individual school can be separately identified, their claim for reimbursement be withheld instead of that of the entire school food authority.

This final rule makes no change to the exception authorized under paragraph (l)(3) in the interim rule. Commenter suggestions are being taken under advisement pending a review of withholding situations as they arise.

Section 210.18(m) Fiscal Action

Section 210.18(m), *Fiscal action*, as amended by the interim rule, allowed a State agency to limit fiscal action for errors found on a first review related to certification, updating eligibility and issuing benefits. For first review errors related to certification, issuance of benefits and updating eligibility status, the State agency was authorized to limit fiscal action to the period from the point corrective action occurs back through the beginning of the review period, provided corrective action occurs.

Of the 14 commenters addressing this interim provision all expressed varying degrees of support. Two commenters representing the same State agency suggested that while limiting fiscal action to the review period is appropriate, this change, when taken together with the expanded application review methodology allowing options for the review period and the increased overpayment disregard threshold, may result in future increased error rates since there is less likelihood of having to repay funds which were incorrectly claimed. These commenters questioned whether it is appropriate to have all three changes.

Five commenters argued that the interim rule changes were not sufficient to improve fiscal action requirements set forth in the final rule. These commenters opposed fiscal action back to the beginning of the year for "non-correctable" errors. Several of these commenters suggested that there must be an error tolerance in the evaluation of the eligibility procedures and in the evaluation of meal components. Another concern related to allowing underclaims to offset fiscal action.

This final rule adopts the provision as set forth in the interim rule. As with the withholding of payments provisions, the commenter suggestions are being taken under advisement pending a review of the implementation of the fiscal action requirements. The Department would like to take this opportunity to point out that existing policy authorizes State agencies to allow underclaims to offset overclaims.

Section 210.18(q) and § 210.30(d) Administrative Appeal Process

Sections 210.18(q), *School food authority appeal of State agency findings*, and § 210.30(d), *School food authority appeal of FNS findings*, as set forth in the interim rule, established appeal procedures so that school food authorities could appeal the denial of all or a part of a Claim for Reimbursement or withholding of payments resulting from a review under the Coordinated Review Effort.

Of the 10 commenters addressing this provision, six commenters were supportive although several observed that the procedures were somewhat cumbersome. Two commenters representing the same State agency believed the appeal procedures were unnecessary, very cumbersome and overly prescriptive. These commenters observed that school food authorities presently have the opportunity to provide documentation to reduce fiscal action. Two commenters expressed concerns about the timeframes specified.

This final rule leaves unchanged the appeal procedures as stated in § 210.18(q) and § 210.30(d) of the interim rule and the authority for such appeals as set forth in 7 CFR 215.11(b)(2) and 7 CFR 220.13(f)(2). The appeal procedures were modeled after those used in the Child and Adult Care Food Program and, as such, have been tested over the years. As these procedures are implemented in the National School Lunch Program, the Department would be willing to consider modifications which would expedite the process. The Department intends to take commenter concerns under advisement until such time.

Section 210.19(d), § 215.13(e) and § 220.15(f) Overpayment Disregard

Section 210.19(d), *Management evaluations*, as amended by the interim rule, raised the overpayment disregard from $250 to $600. The interim rule made similar changes to 7 CFR 215.13(e) and 7 CFR 220.15(f). As a result of this change, State agencies, FNS, and the Department's Office of the Inspector General were authorized to disregard any overpayment if the total overpayment does not exceed $600 for any fiscal year.

Eleven commenters supported the increased overpayment disregard; however, several commenters suggested that the disregard should be greater than $600. Examples of $1,000 and $750 were provided. On behalf of Arizona, two commenters pointed out that the State Attorney General's Office has indicated that Arizona prohibits disregarding any overpayment. The Arizona State agency suggested language which would enable the State agency to employ the $600 disregard.

The final rule adopts the interim provision with only a minor technical change until such time as data is available to re-evaluate the $600 figure. In the case of the Arizona State agency, the State's rule of disregard does not authorize an amount in excess of the Federal minimum amount set forth in this final rule, but rather, sets a more stringent monetary standard. Because an overpayment disregard is discretionary on the part of the evaluating entity (unless there is evidence of violations of criminal law or civil fraud statutes), the prohibition in Arizona which prevents the State agency from disregarding any overpayment discovered during an evaluation does not conflict with this final rule. The Department will not, therefore, revise the final provision to allow the Arizona State agency to employ the $600 disregard.

Miscellaneous Correction

Section 210.19(c)(2)(ii), *Fiscal action*, as amended by the interim rule, required fiscal action to be extended back to that point in time during the current school year when the infraction first occurred, "[u]nless otherwise specified under § 210.18(m) * * *." The wording "[u]nless otherwise specified under § 210.18(m)" was a technical change to accommodate the limitation on fiscal action authorized under § 210.18(m) of the interim rule.

The interim rule made an inadvertent change to this provision. Under the 1991 final rule, fiscal action was required "back to the beginning of the school year or that point in time during the current school year when the infraction first occurred, as applicable." The interim rule incorrectly restated this provision, by replacing the words "as applicable" with the words "whichever is earlier." This change had the effect of making the fiscal action provision more stringent; this was unintentional. For this reason, this final rule replaces the words "whichever is earlier" with the words "as applicable" to ensure that it is correctly stated.

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs—social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 215

Children, Food assistance programs, Grant programs—social programs, Milk, Nutrition, Reporting and recordkeeping requirements, Special Milk Program for Children.

7 CFR Part 220

Children, Food assistance programs, Grant programs—social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

Accordingly, the interim rule amending 7 CFR parts 210, 215 and 220 which was published at 57 FR 38579 on August 26, 1992, and became effective on September 25, 1992, is adopted as final, with the following changes:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR part 210 is revised to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.18,

a. The first sentence of the introductory text of paragraph (c) is removed, and two new sentences are added in its place to read as set forth below.

b. The semicolon and the words "and/or" at the end of paragraph (l)(1)(iii) are removed and replaced with a period; paragraph (l)(1)(iv) is removed, and paragraph (l)(1)(v) is redesignated as paragraph (l)(1)(iv).

The addition reads as follows:

§ 210.18 Administrative reviews.

* * * * *

(c) * * * The first year of the first 4-year review cycle began on July 1, 1992, or as otherwise authorized under paragraph (a) of this section and shall end on June 30, 1994. For each State agency, the first 4-year review cycle shall end on June 30, 1997. * * *

* * * * *

3. In § 210.19,

a. The first sentence of paragraph (c)(2)(ii) is revised to read as set forth below.

b. The fourth sentence of paragraph (d) is amended by removing the word "and" between the words "reviews" and "audits" and adding the word "or" in its place.

The revision reads as follows:

§ 210.19 Additional responsibilities.

* * * * *

(c) * * *

(2) * * *

(ii) Unless otherwise specified under § 210.18(m) of this part, fiscal action shall be extended back to the beginning of the school year or that point in time during the current school year when the infraction first occurred, as applicable.* * *

* * * * *

7 CFR PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

1. The authority citation is revised to read as follows:

Authority: 42 U.S.C. 1772, 1779.

§ 215.13 [Amended]

2. In § 215.13, the first sentence of paragraph (e) is amended by removing the word "and" between the words "reviews" and "audits" and adding the word "or" in its place.

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation is revised to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

§ 220.15 [Amended]

2. In § 220.15, the first sentence of paragraph (f) is amended by removing the word "and" between the words "reviews" and "audits" and adding the word "or" in its place.

Dated: January 3, 1994.

George A. Braley,

Acting Administrator.

[FR Doc. 94–838 Filed 1–12–94; 8:45 am]

BILLING CODE 3410–30–U

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV93–955–21FR]

Vidalia Onions Grown in Georgia; Revision of Handler Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule revises the administrative rules and regulations established under the Federal marketing order for Vidalia onions grown in Georgia. This rule will relax the reporting requirements on handlers by expanding the period of coverage of the report for receipts and shipments of onions from one week to one month. This is the only form handlers are required to file with the Vidalia Onion Committee (Committee). The reduction in the reporting burden on handlers will not adversely impact program operations. This rule is based on a unanimous recommendation of the Committee, which is responsible for local administration of the order.

DATES: Effective on January 13, 1994. Comments which are received by February 14, 1994, will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administrative Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456, FAX number (202) 720–5698. Comments should reference this docket number, the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Shoshana Avrishon, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2536–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–3610, or FAX (202) 720–5698; or William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; (813) 299–4770, or FAX (813) 299–5169.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 955 (7 CFR part 955) regulating the handling of Vidalia onions grown in Georgia. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under the Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court

of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers of Vidalia Onions that are subject to regulation under the marketing order and approximately 250 producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $3,500,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of the Vidalia onion handlers and producers may be classified as small entities.

This action revises § 955.101 of Subpart—Administrative Rules and Regulations and is based on a unanimous recommendation of the Committee and other available information.

Currently under § 955.101, Report of Shipments, handlers are required to provide the Committee with information regarding the volume of Vidalia onions received and shipped during each week of the shipping season. The normal shipping season for cured Vidalia onions runs from April through June, approximately 12 weeks. In addition, green Vidalia onions usually are shipped beginning in January of each year. Handlers are required to provide this information to the Committee each week. The Committee provides a form to assist handlers in providing this information. The information required includes the name and address of handler, the period covered for the report, the total weekly receipts of Vidalia onions and the total fresh market shipments of Vidalia onions.

The Committee needs such information for the purpose of computing and collecting assessments, which are necessary to finance the program. When this reporting requirement was first implemented, the Committee believed that the best method for obtaining the necessary information was to require handlers to report to the Committee the volume of fresh market shipments at the end of each week during the harvesting and shipping season.

The Committee also uses the information on these reports in planning and evaluating market development activities and recommending production research projects. This information is also made available to the industry on a composite basis to aid growers and handlers in planning their individual operations and making marketing decisions during the season. At the time of implementation, the reporting burden was estimated to be five minutes for a handler to complete each weekly report.

The Committee has been experiencing problems in receiving the reports on a timely basis from many handlers. Many of the handlers not reporting are smaller grower-handlers (2 to 10 acres) who only operate two or three months of the year and do their bookkeeping at the end of the season. During the harvest season, these small handlers, mostly family-run operations, are very busy and have complained that weekly reporting is burdensome to them.

These reports are used by the Committee in calculating the assessments owed by each handler. Thus, it is important that the reports be filed on a timely basis. Because many handlers have filed reports late, the Committee has experienced difficulty in collecting all assessments due the Committee. The Committee has expended much time and effort in identifying and locating these handlers. In addition, handlers who have filed their reports on a timely basis have complained to the Committee that others are not being assessed.

The Committee met on August 28, 1993, to discuss these complaints and reporting problems and unanimously recommended revising the administrative rules and regulations by expanding the period of coverage of the reports to be filed from one week to one month. This will reduce the number of reports filed on an annual basis from approximately 24 to approximately 6. Prior to the issuance of this rule, the reporting process for the 24-week period expended approximately 203 reporting hours annually. This action will reduce the reporting hours to approximately 93, a reduction of 110 hours on an annual basis.

The Committee also recommended that the report be required to be filed no later than seven days after the end of each month.

The Committee believes that this recommendation will decrease the reporting burden on handlers by eliminating unnecessary reporting while still providing the Committee with the information it needs to properly administer the order. This action will bring the reporting requirements into conformance with current industry operating practices and provide an acceptable time frame for the submission of reports.

The Committee believes that this relaxation will enable the small family-run operations to file reports and pay assessments on a timely basis. This will, in turn, reduce the time and effort the Committee expends on locating handlers who have not filed reports.

The Committee was concerned about the effect monthly reporting will have on their marketing efforts. The weekly reporting provided a good source of information that was used in their marketing decisions. It was determined that the monthly reporting should provide sufficient information to assist the Committee in its marketing efforts and if any problems arise at a later date, alternate sources of obtaining this information on a weekly basis can be explored. The Committee believes, at this time, it is more important to ensure that all handlers are properly filing reports with the Committee and paying assessments that are due on a timely and equitable basis.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0581–0160.

After consideration of all relevant information presented, including the Committee's unanimous recommendation and other information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that upon good cause it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective

date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes requirements on handlers; (2) this action was unanimously recommended at a public meeting; (3) it is desirable to have this action in place as soon as possible because the 1994 shipping season for green Vidalia onions is expected to begin in January, and the relaxed reporting requirements should apply to as much of that crop as possible; and (4) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 is amended to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 955.101 is added to read as follows:

§ 955.101 Report of shipments.

Each handler, at the end of each month's operation, but not later than seven (7) days after the end of the month, shall report to the Committee, on a form provided to such handler by the Committee, the following information:

(a) Name of handler;
(b) Address of handler;
(c) Period covered;
(d) Total receipts of Vidalia onions;
(e) Total fresh market shipments of Vidalia onions.

Dated: January 5, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–671 Filed 1–12–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

8 CFR Parts 3, 103, 242, and 292

[AG Order No. 1835–93]

Executive Office for Immigration Review; Rules of Procedure Before Immigration Judges

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The rules of administrative procedure that are followed in all matters before the Immigration Judges were published in interim form on April 6, 1992 at 57 FR 11568–11575. Following a period of public comment, the rules of procedure were amended to reflect many of the suggestions and comments that were received.

Changes adopted in the final rule clarify that an exception exists to the standards for summary dismissal of an appeal when a "good faith" argument is made for modification, extension or reversal of the law. The specific language that was required for certification of translation of a foreign language document has been deleted from the final rule as too restrictive. To comply with statutory requirements for notice of hearings to aliens in deportation proceedings, the final rule amends the definition of "service" of a document.

The final rule also clarifies the authority of an Immigration Judge to waive the appearance of minors and represented aliens at hearing, and further distinguishes the requirements for proceeding *in absentia* in deportation proceedings from those in exclusion hearings.

In addition to implementing the changes outlined above, the final rule establishes the procedural requirements for custody hearings, pre-hearing conferences, filing documents and applications, and public access to hearings. The interim rule that established disciplinary proceedings against attorneys for frivolous behavior has not been amended, and will continue in interim form until further notice, to allow further consideration of the comments received.

EFFECTIVE DATE: This final rule is effective January 13, 1994, except for § 292.3, which will continue in interim form.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041. (703) 305–0470.

SUPPLEMENTARY INFORMATION: The Department of Justice promulgated an interim rule to implement provisions in sections 504, 545 and 701 of the Immigration Act of 1990, Pub. L. 101–649 ("IMMACT"), and to address procedural and administrative matters which arise in immigration proceedings. The Executive Office for Immigration Review ("EOIR") received 53 comments from legal aid organizations and attorneys nationwide. The comments concerned many of the interim rules, and all were carefully considered in the adoption of the final rule. What follows is a discussion of the issues raised in the comments, the agency response to the comments, and the revisions to the interim rule.

1. Promulgation of the Rule

Several commenters objected to the promulgation of the rule in interim form, which provided an opportunity for public comment only after publication. Commenters suggested that by publishing the rule in interim form without opportunity for pre-publication comment, the agency did not comply with the Administrative Procedure Act ("APA"). This conclusion is incorrect. Provisions in the interim rule are procedural rules or interpretative rules. The APA provides that such rules may be issued without notice and opportunity for prior comment and may be effective upon publication. See 5 U.S.C. 553 (b)(A), (d). Moreover, the interim rule provided that two provisions which arguably contained "substantive" rules (§§ 3.15, 3.26) would not be effective until more than thirty days after the end of the comment period specified in the interim rule, and more than sixty days after the publication of the interim rule. Further, the interim rule invoked the "good cause" exception to the APA's requirement that a rule be published thirty days before its effective date. 57 FR at 11570. Finally, although the final rule modifies the interim rule, it remains a logical outgrowth of the interim rule. Accordingly, no additional opportunity for comment on the final rule is required. For these reasons, the interim rule could be promulgated without opportunity for prior comment and with most of its provisions effective on the date of publication, and this final rule can be effective on the date of publication.

2. Section 3.1(d)(1–a) Summary Dismissal of Appeals

This rule received 33 comments. Some commenters objected to the provision allowing dismissal of an appeal which lacks an arguable basis in law or fact. Commenters suggested that this standard is too vague and does not provide sufficient notice to the appealing party of the Board of Immigration Appeals ("Board") requirements for avoiding summary dismissal. The commenters argued that an appeal should not be dismissed if it is supported by a "good faith argument for an extension, modification or reversal of existing law". The commenters requested that the regulation incorporate this language so that attorneys "will not be deterred from bringing appeals to improve the law".

This "good faith exception" language is found at § 292.3(a)(15)(i) but had not been included in the provision concerning summary dismissal of an appeal in § 3.1. The final rule adds this exception to § 3.1. This language will clarify the exception to the grounds for summary dismissal, and will encourage effective advocacy while still maintaining high standards for appellate review.

Commenters further objected to dismissal of an appeal for which no brief is filed, arguing that summary dismissal of an appeal without review of the file is particularly harmful to a pro se alien who may not realize the consequences of failing to file a brief. Summary dismissal is not mandated under the final rule, but is within the Board's discretion. The Board may review the record on the merits if it so chooses.

In section 545(a) of IMMACT (8 U.S.C. 1252b(d)), Congress directed the Attorney General to create regulations that would specify circumstances under which an administrative appeal would be considered frivolous and circumstances under which an appeal could be summarily dismissed. The final rule clearly delineates such circumstances, and reflects the Congressional mandate to limit frivolous appeals in immigration proceedings.

3. Section 3.13 Definitions

Eighteen identical comments were received concerning the definition of the word "service". Commenters noted that the definition of "service" did not reflect the requirements of section 242B of the Immigration and Nationality Act as amended ("Act") (8 U.S.C. 1252b) which directs that notices of deportation hearings be served in person or by certified mail. The commenters are correct, and the final rule is changed to include reference to this provision. If the document to be served is an Order to Show Cause ("OSC") or a Notice of Deportation Hearing, such document shall be served in person or by certified mail. However, the definition of service found in the interim rule that allows for first-class mailed service will be retained for documents that are not subject to section 242B of the Act.

4. Section 3.14 Jurisdiction and Commencement of Proceedings

Twenty-seven comments were received concerning this part of the rule. The commenters requested that the alien, as well as the Immigration and Naturalization Service ("INS"), have an opportunity to file the OSC to begin deportation proceedings. The commenters argued that allowing the alien to file the OSC at the location of his or her choice would permit the alien better access to witnesses and counsel. Prior to the interim rule, EOIR had allowed the alien to file a copy of the OSC, and the Board acknowledged that the regulation was silent regarding which party could file the OSC. See *Matter of Sanchez*, ID 3139.

EOIR decided to terminate its practice of accepting OSCs from aliens to begin deportation proceedings, because it is within the discretion of the party bringing the charges, i.e., INS, to choose the place of initial venue. It is particularly important in detained cases that INS have the ability to begin deportation proceedings near where the alien is detained. In some cases, aliens have arranged to have OSCs filed in cities other than where the alien was located, causing the INS to seek a change of venue in order to keep the alien detained. If an alien can demonstrate need for change of venue, he or she may request a change of venue from the Immigration Judge.

5. Section 3.15 Contents of the Order To Show Cause and Notification of Change of Address

Twenty-six comments were received, many suggesting alternatives to the requirement imposed on an alien to report his or her address to EOIR within five days of service of the OSC or within five days after any change in address. Some commenters requested that the reporting period be lengthened and suggested extensions ranging from two weeks to thirty days. However, the reporting requirement as incorporated by Congress in section 242B of the Act used the term "immediately". The agency interpreted this term to mean a very short duration, and therefore set a period of five days for an alien to report any change of address. The five-day period meets the statutory requirement, while giving the public specific guidelines to follow. EOIR has created a standard change of address form, the EOIR–33, which will allow the alien to provide all the necessary information required under the rule. The form is designed to be folded and mailed, and is addressed to the Office of the Immigration Judge where the change of address should be filed. INS distributes the EOIR–33 with each OSC, and EOIR provides these forms with its Notices of Hearing. These procedures provide the alien with an easy and uniform method of complying with the statutory reporting requirement.

Commenters also raised concerns with the language in the introductory phrase of § 3.15(a), which stated that "Omission of any of these items (listed within the body of paragraph (a) of the rule) shall not provide the alien with any substantive or procedural rights". The commenters suggested that if any of the administrative information listed in § 3.15(a) is missing from the OSC, the OSC should be considered defective and set aside. EOIR disagrees. The introductory phrase was added to the rule to distinguish those items in § 3.15(a) which are necessary to EOIR in the administration of case processing, as distinguished from those items found in § 3.15(b) which are required to be included on the OSC by statute in section 242B(a)(1) of the Act (8 U.S.C. 1252b(a)(1)). EOIR requires INS to include certain information on the OSC before accepting the document for case processing. However, the alien has no statutory benefit or right accruing from the omission of that information. Therefore, the five-day reporting requirement, and the introductory phrase in § 3.15(a) are retained in the final rule.

6. Section 3.19 Custody/Bond

Twenty-four comments were received regarding this rule. Many commenters expressed concern with the requirement that an alien who has already had a bond redetermination must request a subsequent redetermination in writing. The commenters argued that this requirement would limit the number of bond redeterminations that an alien could request. The rule, however, does not limit the number of bond redeterminations. It does require an alien who has had a bond redetermination to provide a written demonstration of a material change in circumstances prior to another redetermination. Requiring the respondent to set forth a showing of material change in circumstances before appearing before the Immigration Judge will permit meritorious cases to be heard more quickly, and will discourage frivolous requests for multiple bond hearings. The rule has been continued in final form.

7. Section 3.20 Change of Venue

This rule received 18 identical comments requesting that venue be set where the respondent resides, or where the acts which render the alien deportable are committed. Venue is determined by INS at the time the charging document is filed. When an alien has a fixed residence and/or can demonstrate factors that warrant a change of venue, the Immigration Judge has the authority to change venue to that location. The interim rule did remove the authority of the Immigration

Judge to change venue on his or her own motion; venue may now be changed only upon motion of either party. This change is retained in the final form.

8. Section 3.21 Pre-Hearing Conferences and Statements

Twenty-five comments were received. Many commenters objected to the use of pre-hearing conferences for pro se aliens, arguing that the process is too complex for unrepresented aliens to understand. One commenter praised the idea of pre-hearing conferences, and suggested that the process will be effective in handling complex cases. While the rule concerning pre-hearing conferences existed prior to the interim rule, the interim rule expanded the authority of the Immigration Judge to order the parties to file statements of fact, stipulations, lists of witnesses and exhibits, etc. that would assist in the processing of the case. The pre-hearing conference will aid in identifying issues that can be clarified by the parties outside the courtroom and help to resolve issues about which there is little or no dispute. This regulation encourages meetings between the parties prior to the hearing to refine the case for ultimate presentation to the Immigration Judge. Requirements of the pre-hearing conference are within the discretion of the Immigration Judge, who can best evaluate the circumstances of a particular case. The rule applies to all parties, including pro se aliens. The Immigration Judge is best situated to determine whether a pre-hearing conference is needed when a pro se alien is involved.

9. Section 3.26 In Absentia Hearings

Twenty-two comments were received. The commenters noted that the language of the interim rule did not distinguish the requirements for an *in absentia* hearing in deportation proceedings under section 242B of the Act from the *in absentia* process followed in exclusion hearings. Section 242B of the Act mandates an *in absentia* hearing in deportation proceedings only under certain specific conditions that require personal or certified mailed notice of the hearing to the alien. The final rule includes language that accurately reflects these statutory requirements in deportation proceedings.

In addition, the rule has been amended to clarify that the Immigration Judge shall order the respondent deported *in absentia* if the Service meets the requirements of section 242B(c)(1) of the Act and establishes notice and deportability. This change follows the language of the statute and leaves no ambiguity that a hearing held under section 242B(c)(1) shall result in a deportation order if the Service meets its burden of establishing notice and deportability. The commenters noted that the regulation did not indicate that the burden of proof in establishing notice and deportability lay with INS; therefore this requirements has been expressed in the final rule.

Further, a provision has been added to clarify the circumstances in which an Immigration Judge can proceed *in absentia* in exclusion proceedings. The rule has been amended to specify that notice of the time and place of the hearing on the charging document is sufficient notice to proceed *in absentia* in exclusion proceedings.

Many commenters suggested that this rule eliminates an Immigration Judge's discretionary authority to waive the presence of minors and represented aliens at hearing under certain circumstances. The Immigration Judge continues to have discretionary authority to waive the presence of minors and represented aliens for good cause, as set forth in the interim rule under redesignated § 3.25. In addition, § 3.26 is amended to include language concerning the waiver authority.

10. Section 3.27 Public Access to Hearing

Seven comments were received that raised concerns about the adequacy of the rule in protecting battered spouses. Commenters requested that certain INS forms, particularly the Waiver of Joint Petition (I–751) and the application for work authorization (Form I–765) provide that the information contained on these forms be treated as confidential information. These forms are not EOIR forms and while EOIR has no jurisdiction over these forms, EOIR has forwarded the comments concerning this regulation to INS for its consideration.

In all EOIR proceedings concerning an abused spouse or child, the proceedings and the record will be closed to the public, unless the affected party requests otherwise. Commenters raised a question as to who would prevail in the situation where a parent and child disagree as to whether the hearing should be open to the public. In that instance, the Immigration Judge is in the best position to determine the need for confidentiality, and the decision to open the case will rest with the Judge.

11. Sections 3.31 and 103.7 Filing Documents and Applications.

Thirty-three comments were received concerning pre-paying fees to INS prior to filing documents with EOIR. Commenters note that some INS field offices are not easily accessible, or are closed at certain times during the workday. Many Commenters requested that EOIR reinstitute the practice of collecting fees on behalf of INS for the convenience of the parties or their attorneys. EOIR does not process fees, although in certain locations EOIR did collect fees on behalf of INS. INS has the administrative process in place to collect and process fees under § 103.7, which system includes fiscal requirements by the Department of Treasury, personnel resources and equipment. A duplication of these resources at this time is not warranted by the demand for such services and the rule will not be modified.

12. Section 3.32 Service and Size of Documents

Eighteen comments were received. Commenters suggested amending this rule to include reference to the requirements under section 242B of the Act for notices of hearing. However, these requirements have been included in the final version of § 3.15, and therefore it would be redundant to incorporate the notice requirements in this section.

In addition, some commenters suggested that all documents filed in an *in absentia* case be served on the absent party. There is no obligation to furnish an absent party with documents or records received during the proceeding, and this suggestion will not be adopted.

13. Section 3.33 Translation of Documents

Three comments requested that the rule be changed to allow the translator to provide a generic certification of a foreign language document, rather than one with the specific language set forth in the interim regulation. The commenters noted that many documents are translated overseas and arrive in this county without the specific language of certification that was required in the interim rule. The underlying necessity for a translator to certify to competency and accuracy can be served by a generic certification. The final rule reflects this change.

14. Section 3.37 Decisions

Nineteen comments were received. The commenters cited confusion with the use of the phrases "minute orders" and "memorandum of oral decision". In the supplementary information given with the publication of the interim rule, these two expressions were used interchangeably, although the language in the rule itself refers to the Immigration Judge's order as a "memorandum of oral decision". Both

expressions refer to the same abbreviated order that the Immigration Judge issues at the end of the proceeding, indicating the decision of the court.

The commenters argued that the memorandum summarizing the oral decision does not adequately explain the reasons for the disposition of the case, and should be expanded in order to form the basis of an appeal. However, the memorandum of oral decision is not a substitute for the actual reasoned decision of the Immigration Judge, which is provided orally at the hearing and by transcript to the alien if the case is ultimately appealed. The purpose of the memorandum order is to serve as an efficient and expeditious method of summarizing the order of the Immigration Judge immediately at hearing, and to provide a brief record of the ultimate outcome of the hearing. It was not meant to replace the oral decision, and expanding it to include reasonings and citations of law would defeat its purpose.

In addition, a provision has been added to this section which indicates that a written copy of the decision will not be sent to an alien who has failed to provide an address. Section 242B of the Act has placed upon the alien the requirement that he or she must provide a written record of an address at which he or she may be contacted respecting proceedings. Section 242B(c)(2) of the Act specifies that no notice of hearing is required if the alien has failed to provide an address. It therefore follows that there is no requirement that the alien receive a copy of the decision, absent an address having been provided.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. The rule meets the applicable standards provided in section 2(a) and 2(b)(2) of E.O. 12778.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 292

Administrative practice and procedure, Immigration, Lawyers, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 8 CFR chapter I which was published at 57 FR 11568 on April 6, 1992, is adopted as a final rule with the following changes set forth below, except for § 292.3, which shall continue in interim form:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2. Section 3.1 is amended by revising paragraph (d)(1-a) to read as follows:

§ 3.1 General authorities.

* * * * *

(d) * * *

(1–a) *Summary dismissal of appeals.* (i) *Standards.* The Board may summarily dismiss any appeal or portion of any appeal in any case in which:

(A) The party concerned fails to specify the reasons for the appeal on Form EOIR–26 or Form EOIR–29 (Notices of Appeal) or other document filed therewith;

(B) The only reason for the appeal specified by the party concerned involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(C) The appeal is from an order that granted the party concerned the relief that had been requested;

(D) The Board is satisfied, from a review of the record, that the appeal is filed for an improper purpose, such as to cause unnecessary delay, or that the appeal lacks an arguable basis in law or fact unless the Board determines that it is supported by a good faith argument for extension, modification or reversal of existing law.

(E) The party concerned indicates on Form EOIR–26 or Form EOIR–29 that he or she will file a brief or statement in support of the appeal and, thereafter, does not file such brief or statement, or reasonably explain his or her failure to do so, within the time set for filing; or

(F) The appeal fails to meet essential statutory or regulatory requirements or is expressly excluded by statute or regulation.

(ii) *Disciplinary consequences.* The filing by an attorney or representative accredited under § 292.2(d) of this chapter of an appeal which is summarily dismissed under paragraph (d)(1–a)(i) of this section may constitute frivolous behavior under § 292.3(a)(15) of this chapter. Summary dismissal of an appeal under paragraph (d)(1–a)(i) of this section does not limit the other grounds and procedures for disciplinary action against attorneys or representatives.

* * * * * *

3. Section 3.13 is amended by revising the definition "service" to read as follows:

§ 3.13 Definitions.

* * * * *

Service means physically presenting or mailing a document to the appropriate party or parties; however, if the document to be served is the Order to Show Cause or the Notice of Deportation Hearing, such document shall be served in person to the alien, or by certified mail to the alien or the alien's attorney.

4. § 3.26 is revised to read as follows:

§ 3.26 In absentia hearings.

(a) In any exclusion proceeding before an Immigration Judge in which the applicant fails to appear, the Immigration Judge shall conduct an *in absentia* hearing if the Immigration Judge is satisfied that notice of the time and place of the proceeding was provided to the applicant on the record at a prior hearing or by written notice to the applicant or to the applicant's counsel of record on the charging document or at the most recent address in the Record of Proceeding.

(b) In any deportation proceeding before an Immigration Judge in which the respondent fails to appear, the Immigration Judge shall order the respondent deported *in absentia* if: (1) The Service establishes by clear, unequivocal and convincing evidence that the respondent is deportable; and (2) the Immigration Judge is satisfied that written notice of the time and place of the proceedings and written notice of the consequences of failure to appear, as set forth in section 242B(c) of the Act (8 U.S.C. 1252b(c)), were provided to the respondent in person or were provided to the respondent or the respondent's counsel of record, if any, by certified mail.

(c) Written notice to the respondent at the most recent address contained in the

Record of Proceeding shall be considered sufficient for purposes of this section. If the respondent fails to provide his or her address as required under § 3.15(c), no written notice shall be required for an Immigration Judge to proceed with an *in absentia* hearing. This subsection shall not apply in the event that the Immigration Judge waives the appearance of an alien under § 3.25.

5. § 3.33 is revised to read as follows:

§ 3.33 Translation of documents.

Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator that must be printed legibly or typed. Such certification must include a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities.

6. § 3.37 is amended by adding paragraph (b) to read as follows:

§ 3.37 Decisions.

* * * * *

(b) A written copy of the decision will not be sent to an alien who has failed to provide a written record of an address.

Dated: December 29, 1993.

Janet Reno,

Attorney General.

[FR Doc. 94–573 Filed 1–12–94; 8:45 am]

BILLING CODE 1521–36–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 34

RIN 3150—AA38

Standards for Protection Against Radiation; Removal of Expired Material: Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; removal of expired material: correction.

SUMMARY: This document corrects a final rule that removed the text of the standards for protection against radiation that are no longer in effect. In the final rule published on December 22, 1993 (58 FR 67657), the NRC inadvertently failed to remove one of the expired sections. This action is necessary to remove that section, make other minor corrections, and inform the public and licensees of these corrections.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Donald A. Cool, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3785.

SUPPLEMENTARY INFORMATION:

1. On page 67659, in the first column, amendatory instructions numbered 6 through 10 are corrected to read as follows:

§§ 20.1–20.602 [Removed]

6. Sections 20.1 through 20.602 are removed.

Appendix A to §§ 20.1–20.602 [Removed]

7. Appendix A to §§ 20.1–20.602 is removed.

Appendix B to 20.1–20.602 [Removed]

8. Appendix B to §§ 20.1–20.602 is removed.

Appendix C to §§ 20.1–20.602 [Redesignated]

9. Appendix C to §§ 20.1–20.602 is redesignated as appendix B to 10 CFR part 30.

Appendix D to §§ 20.1–20.602 [Removed]

10. Appendix D to §§ 20.1–20.602 is removed.

2. On page 67660, in the second column, amendatory instruction numbered 37 is corrected to read as follows:

§ 34.42 [Amended]

37. In § 34.42, remove the phrases "§ 20.204(c) or, for licensees implementing the provisions of §§ 20.1001–20.2401," and "§ 20.203 (b) and (c)(1) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

Dated at Bethesda, Maryland this 6th day of January, 1994.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 94–701 Filed 1–12–94; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Part 1102

[Docket No. AS94–1]

Appraisal Subcommittee; Appraiser Regulation; Freedom of Information Act Implementation

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Final rules.

SUMMARY: The Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council is adopting amendments to the portion of its regulations regarding the availability of information to enable interested persons: To obtain copies of ASC final opinions and orders in adjudications, statements of general policy not published in the **Federal Register**, interpretive, no-action requests and responses and certain other correspondence related to ASC field reviews; to request confidential treatment of information subject to a Freedom of Information Act ("FOIA") request; and to petition for the issuance, amendment or repeal of an ASC rule.

EFFECTIVE DATE: February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel, at (202) 634–6520, Appraisal Subcommittee, 2100 Pennsylvania Avenue NW., suite 200, Washington, DC 20037.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

FOIA, 5 U.S.C. 552, generally requires each Federal agency to make available to the public information regarding its organization, operation, rules of procedure, substantive rules and interpretations of general applicability and statements of general policy. 5 U.S.C. 552(a)(1). In addition, each agency, in accordance with published rules, must "make available for public inspection and copying—(A) final opinions, * * * as well as orders, made in the adjudication of cases; (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**, and (C) administrative staff manuals and instructions to staff that affect a member of the public * * *." 5 U.S.C. 552(a)(2). Certain documents and portions thereof, however, can be withheld from disclosure under one or more statutory exemptions set out in FOIA, 5 U.S.C. 552(b), or the Privacy Act of 1974, 5 U.S.C. 552a.[1]

Executive Order No. ("EO") 12600, 52 FR 23781 (June 23, 1987), generally requires each agency subject to FOIA to establish procedures to notify submitters of records containing confidential commercial information

[1] On December 14, 1992, the ASC adopted 12 CFR part 1102, subpart D, implementing the ASC's basic program for complying with FOIA. *See* 57 FR 60722 (December 22, 1992). And, on August 7, 1992, the ASC adopted 12 CFR part 1102, subpart C, implementing the Privacy Act. *See* 57 FR 36356 (August 13, 1992).

when those records are requested under FOIA and the agency determines that the information may be required to disclose that information.

Paragraph (e) of 5 U.S.C. 553 requires each agency to give an interested person the right to petition for the issuance, amendment or repeal of a rule.

On October 13, 1993, the ASC proposed for comment several amendments to its related regulations in 12 CFR part 1102, subpart D (1993), to implement these authorities. The comment period closed on December 9, 1993, and no written comments were received. The ASC, however, received and incorporated into the final version of the amendments oral comments of a technical nature from the Office of Management and Budget ("OMB").

II. Description of the Final Amendments

The ASC is adopting technical amendments to subpart D—new §§ 1102.305, .306 and .307—to implement the provisions summarized above. In that regard, new § 1102.305 clarifies that certain written communications, such as the ASC's annual report to Congress; all final opinions and orders made in the adjudication of cases; all statements of general policy not published in the **Federal Register**, and incoming and outgoing correspondence concerning interpretive, no-action and State review matters, shall be made publicly available on a routine basis no sooner than ten business days after the ASC or its staff sends or gives the item of correspondence to the affected person or persons.

Next, the ASC is adopting § 1102.306, consistent with EO 12600, to provide predisclosure notification procedures for confidential commercial information. Under paragraph (a) of the new section, a submitter of written information to the ASC who wants some or all of that information to be treated as confidential information under 5 U.S.C. 552(b)(4) may file a request for confidential treatment with the ASC at the time the information is submitted to the ASC or soon thereafter. Confidential information means "trade secrets and commercial or financial information obtained from a person and privileged or confidential," as stated in section 552(b)(4).

New paragraphs (b) and (c) of § 1102.306 deal with the form of the request. They require the submitter to include in reasonable detail the facts and arguments supporting the request and its legal justification, to designate clearly all information considered confidential and to separate clearly such information from other non-confidential information, whenever possible.

Paragraph (d) of the section notes that a request for confidential treatment will be considered by the ASC only in connection with a FOIA request for access to the claimed confidential information under FOIA. That is, the ASC will not determine whether the request for confidential treatment should be granted or denied, in whole or in part, when the request is received by the ASC. The ASC, however, will process the request upon receipt to ensure that it is complete and would place it with the related information submission. If a FOIA request were made respecting that information, the ASC then will be required to send written notices to the submitter and the FOIA requester. The submitter will have no longer than ten business days to file written objections to the ASC's disclosure of the information. The ASC may provide a submitter with a notice even if the submitter did not request confidential treatment of the requested information.[2]

These notice requirements will not have to be followed under certain stated circumstances, such as if the ASC determines under this subpart that the information should not be disclosed. The ASC must carefully consider the issues involved and, if disclosure of the requested information is warranted, a written notice containing a brief description of why the submitter's objections were not sustained must be forwarded to the submitter within ten business days. The time for response may be extended up to ten additional business days, as provided in 5 U.S.C. 552(a)(6)(B), of for other periods by agreement between the requester and the ASC. This notice shall be provided to the submitter at least five business days prior to release of the requested information. Last, the ASC will be required to notify a submitter promptly of any filing of any suit against the ASC pursuant to 5 U.S.C. 552 to compel disclosure of documents or information covered by the submitter's request for confidential treatment, and conversely, will be required to notify the requester of the documents or information of any suit filed by the submitter against the ASC to enjoin disclosure.

Finally, § 1102.307 would provide an interested person with the right to petition the ASC for the issuance, amendment or repeal of a rule, thus implementing 5 U.S.C. 553(e).

III. Conclusion

For the reasons stated above, the ASC has determined to adopt the amendments to subpart D of part 1102 to implement 5 U.S.C. 552 and 553(e) and EO 12600.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 35, forms, reporting and recordkeeping requirements included in 12 CFR part 1102, subpart D, §§ 1102.305, 1102.306 and 1102.307 were submitted for review and approval to OMB. See 58 FR 54153 (October 20, 1993). OMB approved these sections, as revised by this final rule, until December 31, 1996, and assigned them control number 3139–0006. The public reporting burden for the collection of information requirements contained in these sections are estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. The sections would enhance the ASC's FOIA program, would conform the ASC's rules and regulations to EO 12600, and would specifically provide for the public's petition rights under 5 U.S.C. 553(e). The estimated number of respondents each year is 100 for § 1102.305, two for § 1102.306 and one for § 1102.307, with an estimated average reporting burden of .5 hours per response and an estimated annual total reporting burden of 51.5 hours.

V. Regulatory Flexibility Act Statement

Pursuant to section 605(b) of the Regulatory Flexibility Act, the ASC certifies that §§ 1102.305, 1102.306 and 1102.307 are not expected to have a significant economic impact on a substantial number of small entities. The rules will fully implement FOIA, EO 12600 and 5 U.S.C. 553(e). None of these authorities addresses business or corporate entities. Accordingly, a regulatory flexibility analysis is not required.

VI. EO 12866 Statement

These rules were reviewed by the Office of Information and Regulatory Affairs of OMB.

[2] If the ASC required the submitter to provide the requested information, the ASC would need to have substantial reason to believe that disclosure of the requested information would result in substantial competitive harm to the submitter. On the other hand, if the submitter provided the information voluntarily to the ASC, the ASC would need to believe that the information is of a kind that the submitter would not customarily make available to the public. See *Critical Mass Energy Project* v. *Nuclear Regulatory Commission*, 975 F.2d 871 (D.C. Cir. 1992), *cert. denied* 113 S. Ct. 1579 (1993).

List of Subjects in 12 CFR Part 1102

Administrative practice and procedure, Appraisers, Banks, Banking, Freedom of information, Mortgages, Reporting and recordkeeping requirements.

Text of the Rule

Chapter XI, title 12, part 1102, subpart D of the Code of Federal Regulations is amended as set forth below:

PART 1102—APPRAISER REGULATION

Subpart D—Description of Office, Procedures, Public Information

1. The authority citation for subpart D is revised to read as follows:

Authority: 5 U.S.C. 552, 553(e); and Executive Order 12600, 52 FR 23781 (3 CFR, 1987 Comp., p. 235).

2. New sections 1102.305, 1102.306 and 1102.307 are added to read as follows:

§ 1102.305 Availability of interpretive, no-action and other written communications.

(a) *In general.* Subject to the provisions of § 1102.304 and subpart C of this part, certain types of ASC written communications shall be made publicly available upon request.

(b) *Types of written communications.* The following types of written communications shall be subject to paragraph (a) of this section:

(1) The ASC's annual report to Congress;

(2) All final opinions and orders made in the adjudication of cases;

(3) All statements of general policy not published in the **Federal Register**.

(4) Requests for the ASC or its staff to provide interpretive advice with respect to the meaning or application of any statute administered by the ASC or any rule or regulation adopted thereunder and any ASC responses thereto;

(5) Requests for a statement that, on the basis of the facts presented in such a request, the ASC would not take any enforcement action pertaining to the facts as represented and any ASC responses thereto: and

(6) Correspondence between the ASC and a State appraiser regulatory agency arising out of the ASC's field review of the State agency's appraiser regulatory program.

(c) *Embargo period.* Unless the ASC determines otherwise, the written communications in paragraph (b) of this section shall be made publicly available no sooner than ten business days after a written response has been sent or given to the affected person or persons.

§ 1102.306 Confidential treatment procedures.

(a) *In general.* Any submitter of written information to the ASC who desires that some or all of his or her submission be afforded confidential treatment under 5 U.S.C. 552(b)(4) (*i.e.*, trade secrets and commercial or financial information obtained from a person and privileged or confidential) shall file a request for confidential treatment with the Executive Director of the ASC at the time the written information is submitted to the ASC or within ten business days thereafter. Nothing in this section limits the authority of the ASC and its staff to make determinations regarding access to documents under this subpart.

(b) *Form of request.* A request for confidential treatment shall be submitted in a separate letter or memorandum conspicuously entitled, "Request for Confidential Treatment." Each request shall state in reasonable detail the facts and arguments supporting the request and its legal justification. If the submitter had been required by the ASC to provide the particular information, conclusory statements that the information would be useful to competitors or would impair sales or similar statements generally will not be considered sufficient to justify confidential treatment. When the submitter had voluntarily provided the particular information to the ASC, the submitter must specifically identify the documents or information which are of a kind the submitter would not customarily make available to the public.

(c) *Designation and separation of confidential material.* Submitters shall clearly designate all information considered confidential and shall clearly separate such information from other non-confidential information, whenever possible.

(d) *ASC action on request.* A request for confidential treatment of information will be considered only in connection with a request for access to the information under FOIA as implemented by this subpart. Upon the receipt of a request for access, the Executive Director or his or her designee ("ASC Officer") as soon as possible shall provide the submitter with a written notice describing the request and shall provide the submitter with a reasonable opportunity, no longer than ten business days, to submit written objections to disclosure of the information. Notice may be given orally, and such notice shall be promptly confirmed in writing. The ASC Officer may provide a submitter with a notice if the submitter did not request confidential treatment of the requested information. If the ASC required the submitter to provide the requested information, the ASC Officer would need substantial reason to believe that disclosure of the requested information would result in substantial competitive harm to the submitter. If the submitter provided the information voluntarily to the ASC, the ASC officer would need to believe that the information is of a kind the submitter would not customarily make available to the public. The ASC Officer similarly shall notify the person seeking disclosure of the information under FOIA of the existence of a request for confidential treatment. These notice requirements need not be followed if the ASC Officer determines under this subpart that the information should not be disclosed; the information has been published or has been officially made available to the public; disclosure of the information is required by law (other than FOIA); or the submitter's request for confidential treatment appears obviously frivolous, in such instance the submitter shall be given written notice of the determination to disclose the information at least five business days prior to release. The ASC Officer shall carefully consider the issues involved, and if disclosure of the requested information is warranted, a written notice, containing a brief description of why the submitter's objections were not sustained, must be forwarded to the submitter within ten business days. The time for response may be extended up to ten additional business days, as provided in 5 U.S.C. 552(a)(6)(B), or for other periods by agreement between the requester and the ASC Officer. This notice shall be provided to the submitter at least five business days prior to release of the requested information.

(e) *Notice of lawsuit.* The ASC Officer shall notify a submitter of any filing of any suit against the ASC pursuant to 5 U.S.C. 552 to compel disclosure of documents or information covered by the submitter's request for confidential treatment within ten business days of service of the suit. The ASC Officer also shall notify the requester of the documents or information of any suit filed by the submitter against the ASC to enjoin their disclosure within ten business days of service of the suit.

§ 1102.307 Right to petition for issuance, amendment and repeal of rules of general application.

Any person desiring the issuance, amendment or repeal of a rule of general application may file a petition for those purposes with the Executive Director of the ASC. The petition shall include a

statement setting forth the text or substance of any proposed rule or amendment desired or shall specify the rule for which repeal is desired. The petitioner also shall state the nature of his or her interest and the reasons for seeking ASC action. The Executive Director shall acknowledge receipt of the petition within ten business days of receipt. As soon as reasonably practicable, the ASC shall consider the petition and related staff recommendations and shall take such action as it deems appropriate. The Executive Director shall notify the petitioner in writing of the ASC action within ten business days of the action.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Dated: January 5, 1994.

Fred D. Finke,

Chairperson.

[FR Doc. 94–813 Filed 1–12–94; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–130–AD; Amendment 39–8777; AD 93–25–13]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires a cold expansion of certain attachment holes for the forward pintle fitting and certain holes at the actuating cylinder anchorage of the main landing gear (MLG). This amendment is prompted by reports that, during fatigue testing, cracking was found propagating from attachment holes for the forward pintle fitting of the MLG. The actions specified by this AD are intended to prevent fatigue cracking, which may lead to rupture of the inner rear spar and subsequent reduced structural integrity of the wing.

DATES: Effective February 14, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac, Cedex France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Airbus A320 series airplanes was published in the **Federal Register** on September 14, 1993 (58 FR 48009). That action proposed to require a cold expansion of all the attachment holes for the forward pintle fitting of the main landing gear (MLG), except for the holes that are for taper-lok bolts. The proposed AD would also require a cold expansion of the bolts that have not been previously cold expanded at the actuating cylinder anchorage of the MLG.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

All of the commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 5 airplanes of U.S. registry will be affected by this AD, that it will take approximately 600 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $165,000, or $33,000 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–25–13 Airbus Industrie: Amendment 39–8777. Docket 93–NM–130–AD.

Applicability: Model A320 series airplanes, manufacturer's serial numbers (MSN) 002 through 051 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking, which could lead to reduced structural integrity of the wing, accomplish the following:

(a) Prior to the accumulation of 12,000 total landings, or within 2,000 landings after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD in accordance with Airbus Industrie Service Bulletin A320–57–1060, dated December 8, 1992.

(1) Perform a cold expansion of all the attachment holes for the forward pintle fitting of the MLG, except for the holes that are for taper-lok bolts.

(2) Perform a cold expansion of the holes at the actuating cylinder anchorage of the MLG.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The cold expansion shall be done in accordance with Airbus Industrie Service Bulletin A320–57–1060, dated December 8, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac, Cedex France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 14, 1994.

Issued in Renton, Washington, on December 21, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–828 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 93–NM–136–AD; Amendment 39–8779; AD 93–25–15]

Airworthiness Directives; Beech Model 400A and 400T Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model 400A and 400T airplanes, that requires inspection of the rivets in the escape hatch substructure to verify that the proper rivets are installed, and replacement of the incorrect rivets with new rivets or fasteners. This amendment is prompted by the discovery that, during production, incorrect rivets may have been installed in the escape hatch substructure. The actions specified by this AD are intended to prevent reduced structural capability of the airframe.

DATES: Effective February 14, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Aerospace Engineer, Propulsion Branch, ACE–140W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Beech Model 400A and 400T airplanes was published in the **Federal Register** on September 13, 1993 (58 FR 47839). That action proposed to require a one-time inspection of the rivets in the escape hatch substructure to verify that the proper rivets are installed, and replacement of the incorrect rivets with new rivets or fasteners.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 94 Beech Model 400A and 400T airplanes of the affected design in the worldwide fleet. The FAA estimates that 78 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $400 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $65,520, or $840 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–25–15 Beech Aircraft Corporation: Amendment 39–8779. Docket 93–NM–136–AD.

Applicability: Model 400A airplanes having serial numbers RK–1 through RK–57 inclusive, RK–59, RK–60, and RK–62 through RK–66 inclusive; and Model 400T airplanes

having serial numbers TT–02 through TT–30 inclusive, and TT–32; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural capability of the airframe, accomplish the following:

(a) Within 200 hours time-in-service after the effective date of this AD, inspect the rivets in the escape hatch substructure to verify that the proper rivets are installed in accordance with Beechcraft Service Bulletin 2509, dated July 1993.

(1) If the rivet is part number (P/N) MS20470E6, no further action is required by this AD.

(2) If the rivet is not P/N MS20470E6, prior to further flight, replace the rivet with a new Cherry Max rivet or a HI-LOK fastener, in accordance with Beechcraft Service Bulletin 2509, dated July 1993.

(b) As of the effective date of this AD, no person shall install any rivet having P/N MS20470AD5 in the location shown in Figure 1 of Beechcraft Service Bulletin 2509, dated July 1993, on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection and replacement shall be done in accordance with Beechcraft Service Bulletin 2509, dated July 1993. (Note: The issue date of Service Bulletin 2509 is indicated only on page 1 of the document; no other page of this document is dated.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 14, 1994.

Issued in Renton, Washington, on December 21, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–829 Filed 01–12–94; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93–CE–42–AD; Amendment 39–8782; AD 94–01–01]

Airworthiness Directives: Beech Aircraft Corporation Models B300 and B300C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Beech Aircraft Corporation (Beech) Models B300 and B300C airplanes that do not have all cabin seats modified through the incorporation of Beech Kit No. 303–307. This action requires inspecting the cabin seat frames for cracks, repairing any cracks, and modifying the cabin seat frames by incorporating the kit referenced above. Inspection of affected in-service airplanes reveals cracking of these cabin seats around the welded-in bushings. The bearing shafts, which retain the seat frame and belted occupant, are bolted to the frame through these bushings. The actions specified by this AD are intended to prevent separation of the seat from its base caused by cracks around the welded-in bushings, which, in the event of an accident, could result in occupant injury.

DATES: Effective February 11, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 11, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085, or Tosington Enterprises Inc., 2261 Madera Road, Simi Valley, California. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4128; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Beech Models B300 and B300C airplanes that do not have all cabin seats modified through the incorporation of Beech Kit 303–307 was published in the Federal Register on September 10, 1993 (58 FR 47678). The action proposed to require inspecting the cabin seat frames for cracks, repairing any cracks, and modifying the cabin seat frames by incorporating Beech Kit No. 303–307. The proposed actions would be accomplished in accordance with either Beech SB No. 2443 or Tosington SB No. 001, both dated July 1993, as applicable.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 79 airplanes in the U.S. registry would be affected by this AD, that it would take approximately 45 workhours per airplane (5 hours per seat × 9 seats per airplane) to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts will be provided by the manufacturer at no cost to the airplane operator. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $195,525. This figure is based on the assumption that none of the affected airplanes operators have accomplished the required action.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy

of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

Section 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

94–01–01 Beech Aircraft Corporation: Amendment 39–8782; Docket No. 93–CE–43–AD.

Applicability: The following model and serial number airplanes, certificated in any category, that do not have all nine (9) cabin seats modified through the incorporation of Beech Kit No. 303–307:

Model	Serial numbers
B300	FL–1 through FL–76.
B300C	FM–1, FM–2, and FM–3.

Note 1: Beech Service Bulletin (SB) 2443 and Tosington Enterprises Inc. (Tosington) SB No. 001, both dated July 1993, specify procedures for determining whether Beech Kit No. 303–307 is installed on a cabin seat frame.

Compliance: Required within the next 150 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent separation of the seat from its base caused by cracks around the welded-in bushings, which, in the event of an accident, could result in occupant injury, accomplish the following:

(a) Inspect each cabin seat for cracks in accordance with the Accomplishment Instructions section of either Beech SB 2443 or Tosington SB No. 001, both dated July 1993, as applicable. If any crack is found, prior to further flight, repair the crack in accordance with the applicable service bulletin referenced above.

Note 2: Each cabin seat has a placard on the lower seat frame that specifies whether the seat is manufactured by Gordon-Piatt Energy Group (Beech SB No. 2443) or Tosington Enterprises Inc. (Tosington SB No. 001).

(b) Modify the cabin seat frames by incorporating Beech Kit No. 303–307 in accordance with the actions specified in the Accomplishment Instructions section of either Beech SB 2443 or Tosington SB No. 001, both dated July 1993, as applicable.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office ACO), FAA, 1801 Airport Road, room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) The inspection and modification required by this AD shall be done in accordance with either Beech Service Bulletin 2443 or Tosington Service Bulletin No. 001, both dated July 1993, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085, or Tosington Enterprises Inc., 2261 Madera Road, Simi Valley, California 93065. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–8782) becomes effective on February 11, 1994.

Issued in Kansas City, Missouri, on December 22, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Office.

[FR Doc. 94–830 Filed 1–12–94; 8:45 am]

BILLING CODE 4910-13-U

---

14 CFR Part 39

[Docket No. 93–NM–127–AD; Amendment 39–8784; AD 94–01–02]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires modification of the ram air turbine (RAT) system wiring. This amendment is prompted by a report of chatter occurring during takeoff and landing in the RAT airspeed switch relay. The actions specified by this AD are intended to prevent the inability to maintain hydraulic system power in the event that power is lost in both engines.

DATES: Effective February 14, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kristin Larson, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1760; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on September 17, 1993 (58 FR 48617). That action proposed to require modification of the ram air turbine (RAT) system wiring.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Three commenters support the proposed rule.

The Air Transport Association (ATA) of America, on behalf of one of its members, requests that the proposed compliance time be extended to allow the proposed modification to be accomplished within 4,000 hours time-in-service or 15 months after the effective date of the rule, whichever occurs later. This will allow the proposed modification to be accomplished during the time of a regularly scheduled "C" check. The commenter considers that the adoption of the proposed compliance time of 4,000 hours time-in-service would require scheduling special times for the accomplishment of the modification, at additional expense.

The FAA concurs with the commenter's request to extend the compliance time. Extending the compliance time as suggested by the commenter will not adversely affect safety, and will allow the modification to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. Paragraph (a) of the final rule has been revised accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 90 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 53 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3.5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. The cost for required parts will be minimal. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $10,203, or $193 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

94–01–02 Boeing: Amendment 39–8784. Docket 93–NM–127–AD.

Applicability: Model 767 series airplanes; as listed in Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent the inability to maintain hydraulic system power in the event that power is lost in both engines, accomplish the following:

(a) Within 4,000 hours time-in-service or 15 months after the effective date of this AD, whichever occurs later, replace the ram air turbine (RAT) airspeed switch; cap and stow the wire between the RAT airspeed switch and the air/ground relay; and perform a functional test of the RAT deployment system; in accordance with Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988, which contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
1–4, 6, 10	4	May 12, 1988
5, 7–9, 11–14	1	August 10, 1984.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 14, 1994.

Issued in Renton, Washington, on December 28, 1993.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–24 Filed 1–12–94; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93–SW–21–AD; Amendment 39–8766; AD 93–15–10]

Airworthiness Directives; Enstrom Helicopter Corporation Model F–28A, F–28C, F–28C2, F–28F, 280, 280C, 280F, and 280FX Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 93–15–10 that was sent previously to all known U.S. owners and operators of The Enstrom Helicopter Corporation Model F–28A, F–28C, F–28C2, F–28F, 280, 280C, 280F, and 280FX helicopters by individual letters. This AD requires an initial inspection of the composite-wrapped main rotor shaft for composite-wrapping separation, red color residue, corrosion, or cracks, and replacement of certain main rotor shafts. This amendment is prompted by the discovery of a significant crack in a composite-wrapped main rotor shaft. The actions specified by this AD are intended to prevent failure of the main rotor shaft, loss of the main rotor, and subsequent loss of control of the helicopter.

DATES: Effective January 28, 1994, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 93–15–10, issued on August 3, 1993, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 28, 1994.

Comments for inclusion in the Rules Docket must be received on or before March 14, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–21–AD, 2601 Meacham Boulevard, room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Joe McGarvey, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Airframe Branch, Small Airplane Directorate, 2300 East Devon Avenue, room 232, Des Plaines, Illinois 60018, telephone (708) 294–7136, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION: On August 3, 1993, the FAA issued Priority Letter AD 93–15–10, applicable to The Enstrom Helicopter Corporation Model F–28A, F–28C, F–28C2, F–28F, 280, 280C, 280F, and 280FX helicopters, which requires an initial inspection of the composite-wrapped main rotor shaft (shaft) for composite-wrapping separations, red color residue, corrosion, or cracks, and replacement of certain shafts. That action was prompted by the discovery of a significant crack in a shaft. This condition, if not corrected, could result in failure of the shaft, loss of the main rotor, and subsequent loss of control of the helicopter.

The FAA has reviewed and approved The Enstrom Helicopter Corporation Service Directive Bulletin No. 0083, dated July 16, 1993, that describes an initial inspection of the shafts for evidence of separation between the composite-wrapping and the shaft, corrosion, or cracks. Service Directive Bulletin No. 0083 also specifies replacement of certain shafts.

Since the unsafe condition described is likely to exist or develop on other helicopters of the same type design, the FAA issued Priority Letter AD 93–15–10 to prevent failure of the shaft, loss of the main rotor, and subsequent loss of control of the helicopter. The AD requires an initial inspection of the shaft, part number (P/N) 28–13183, for composite-wrapping separation, red color residue, corrosion, or cracks, and replacement of the shaft upon discovery of these conditions. The AD also requires replacement of the shaft whenever vibrations occur that cannot be corrected with track and balance procedures or if track and balance procedures are required more than once. Further, the AD requires replacement of any shaft, P/N 28–13183, with an airworthy shaft, P/N 28–13140–11 or P/N 28–13104–1, within the next 10 hours' time-in-service or at the next annual inspection after the effective date of this AD, whichever occurs first. The actions are required to be accomplished in accordance with the service directive bulletin described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on August 3, 1993, to all known U.S. owners and operators of The Enstrom Helicopter Corporation Model F–28A, F–28C, F–28C2, F–28F, 280, 280C, 280F, and 280FX helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–SW–21–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39

of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

The Enstrom Helicopter Corporation: Amendment 39–8766. Docket Number 93–SW–21–AD. Final Rule of a Priority Letter AD.

Applicability: Model F–28A, F–28C, F–28C2, F–28F, 280, 280C, 280F, and 280FX helicopters equipped with composite-wrapped main rotor shaft, part number (P/N) 28–13183, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main rotor shaft (shaft), loss of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, after the effective date of this airworthiness directive (AD), perform a one-time inspection of the shaft in accordance with paragraph 5.1 of The Enstrom Helicopter Corporation Service Directive Bulletin No. 0083, dated July 16, 1993.

(b) If the shaft is found with composite-wrapping separation, corrosion, red color residue or cracks during the inspections in paragraph (a) of this AD, remove the shaft from further service and install an airworthy shaft, P/N 28–13140–11 or P/N 28–13104–1.

(c) If main rotor (M/R) vibrations occur that cannot be corrected with track and balance procedures; or, if M/R track and balance procedures are required more than once, replace the shaft with an airworthy shaft, P/N 28–13140–11 or P/N 28–13104–1, before further flight.

(d) Within the next 10 hours' time-in-service, or at the next annual inspection after the effective date of this AD, whichever occurs first, remove the shaft, P/N 28–13183, and install an airworthy shaft, P/N 28–13140–11 or P/N 28–13104–1.

(e) Installation of airworthy shafts, P/N 28–13140–11 or P/N 28–13104–1, constitutes terminating action for the requirements of this AD.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Chicago Aircraft Certification Office, 2300 East Devon Avenue, room 232, Des Plaines, IL 60018. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Chicago Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago Aircraft Certification Office.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of only paragraphs (a) and (d) of this AD can be accomplished.

(h) The inspection, removal and replacement shall be done in accordance with The Enstrom Helicopter Corporation Service Directive Bulletin No. 0083, dated July 16, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective January 28, 1994, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 93–15–10, issued August 3, 1993, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on December 3, 1993.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–141 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 93–NM–137–AD; Amendment 39–8778; AD 93–25–14]

Airworthiness Directives; SAAB-Scania Model SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-Scania Model SF340A and SAAB 340B series airplanes, that requires replacement of the left- and right-hand AC generator control relays with new relays at the generator control positions. This amendment is prompted by reports that in-service AC generator control relays, specifically used for generator transfer functions, have failed where the main contacts arced. The actions specified by this AD are intended to prevent loss of AC electrical power, and local area damage that may lead to further electrical failures and smoke in the cockpit.

DATES: Effective February 14, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB-Scania AB, SAAB Aircraft Support Product, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain SAAB-Scania Model SF340A and SAAB 340B series airplanes was published in the **Federal Register** on September 14, 1993 (58 FR 48010). That action proposed to require replacement of the left- and right-hand AC generator control relays, part number (P/N) SM15CXD1, with new relays, P/N SM15CXD4, at the generator control positions (7XA/8XA).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 200 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2.5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $27,500, or $137.50 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or

on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–25–14 SAAB-Scania: Amendment 39–8778. Docket 93–NM–137–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159 inclusive; and Model SAAB 340B series airplanes, serial numbers 160 through 325 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of AC electrical power, and local area damage that may lead to further electrical failures and smoke in the cockpit, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace the left- and right-hand AC generator control relays, part number (P/N) SM15CXD1, with new relays, P/N SM15CXD4, at generator control positions 7XA and 8XA, in accordance with SAAB 340 Service Bulletin SAAB 340–24–022, dated October 21, 1992.

(b) As of the effective date of this AD, no person shall install an AC generator control relay, P/N SM15CXD1, at generator control positions 7XA or 8XA on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The replacement shall be done in accordance with SAAB 340 Service Bulletin SAAB 340–24–022, dated October 21, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB-Scania AB, SAAB Aircraft Support Product, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 14, 1994.

Issued in Renton, Washington, on December 21, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–831 Filed 1-12-94; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 93–NM–224–AD; Amendment 39–8790; AD 94–01–08]

Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and C–9 (military) series airplanes. This action requires inspections to detect cracking in the ventral aft pressure bulkhead, and repair, if necessary. This amendment is prompted by reports of cracking found in the ventral aft pressure bulkhead on several airplanes. The actions specified in this AD are intended to prevent the propagation of cracks in the ventral aft pressure bulkhead, which could lead to failure of the bulkhead and subsequent rapid decompression of the airplane.

DATES: Effective January 28, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 28, 1994.

Comments for inclusion in the Rules Docket must be received on or before March 14, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–224–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P. O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Y. J. Hsu, Airframe Branch, ANM–120L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5325; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: The FAA has recently received reports of cracking found in the ventral aft pressure bulkhead on several McDonnell Douglas Model DC–9 series airplanes. Two operators reported finding fatigue cracks on four airplanes in both the left- and right-hand side ventral aft pressure bulkhead web and doublers, between water lines (stations) Z=43.000 and Z=74.000. The length of the reported cracks found in the webs ranged from 5 inches to 48 inches. The webs of each of the cracked bulkheads on the subject airplanes were made of 2014–T6 material and were 0.042 inch thick. It is suspected that fatigue is the cause of the cracks. The affected airplanes had

accumulated between 73,803 and 83,760 landings at the time of the crack findings. In each case, the cracking was found during inspections that were outside of the operator's normal maintenance program schedule. Currently, there is no requirement for regular inspection of the affected area of the bulkhead. Cracking in the ventral aft pressure bulkhead web or doublers, if allowed to propagate to a critical length, could lead to failure of the bulkhead, extensive structural damage, and subsequent rapid decompression of the airplane.

The FAA has reviewed and approved McDonnell Douglas DC–9 Alert Service Bulletin A53–264, dated December 22, 1993, that describes procedures for conducting repetitive visual, low frequency eddy current, and high frequency eddy current inspections to detect cracking in the ventral aft pressure bulkhead. The area of inspection includes the upper left and right sides of the ventral aft pressure bulkhead in the area of the finger doublers and web between stations Z=34.000 and Z=74.000, from the edge of the ventral doorway outboard and upward along the edge of the doublers.

Since an unsafe condition has been identified that is likely to exist or develop on other Model DC–9 and C–9 (military) series airplanes of the same type design, this AD is being issued to prevent failure of the ventral aft pressure bulkhead due to cracking. This AD requires repetitive visual, low frequency eddy current, and high frequency eddy current inspections to detect cracking in the ventral aft pressure bulkhead. These inspections are required to be accomplished in accordance with the service bulletin described previously. Any cracks found are required to be repaired, prior to further flight, in accordance with a method approved by the FAA. Additionally, operators are required to submit a report of initial inspection findings to the FAA.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–224–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

94–01–08 McDonnell Douglas: Amendment 39–8790. Docket 93–NM–224–AD.

Applicability: Model DC–9 and C–9 (military) series airplanes, as listed in McDonnell Douglas DC–9 Alert Service Bulletin A53–264, dated December 22, 1993; equipped with a ventral aft pressure bulkhead web composed of 2014–T6 material that is 0.042 inch thick; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the aft pressure bulkhead due to cracking, accomplish the following:

(a) For airplanes on which the procedures specified in McDonnell Douglas DC–9 Service Bulletins 53–26 and A53–144, or production equivalent, have not been accomplished (Group I airplanes): Upon the accumulation of 50,000 total landings, or within 30 days after the effective date of this AD, whichever occurs later, conduct an initial visual, low frequency eddy current, and high frequency eddy current inspection to detect cracks in the ventral aft pressure bulkhead, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A53–264, dated December 22, 1993.

(1) If no crack is detected during any of the inspections, repeat these inspections at intervals not to exceed 1,500 landings.

(2) If any crack is detected during any of the inspections, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) For airplanes on which the procedures specified in McDonnell Douglas DC–9 Service Bulletins 53–26 and A53–144, or production equivalent, have previously been accomplished (Group II airplanes): Upon the

accumulation of 60,000 total landings, or within 60 days after the effective date of this AD, whichever occurs later, conduct an initial visual, low frequency eddy current, and high frequency eddy current inspection to detect cracks in the ventral aft pressure bulkhead, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A53–264, dated December 22, 1993.

(1) If no crack is detected during any of the inspections, repeat these inspections at intervals not to exceed 1,500 landings.

(2) If any crack is detected during any of the inspections, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(c) Within 10 calendar days after accomplishing the initial inspection required by paragraph (a) or (b) of this AD, as applicable, submit a report of inspection findings, both positive and negative, to the Manager, Los Angles ACO, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; fax (310) 988–5210. The report must include the following information:

(1) Factory serial number of the airplane;

(2) Total time and flight cycles on the airplane;

(3) A detailed description of the discrepancy finding;

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspections shall be done in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A53–264, dated December 22, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P. O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 28, 1994.

Issued in Renton, Washington, on January 3, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–345 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 93–SW–02–AD; Amdt. 39–8738; AD 93–23–04]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale and Eurocopter France Model SE 3160, SA 315B, SA 316B, SA 316C, and SA 319B Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Societe Nationale Industrielle Aerospatiale and Eurocopter France Model SE 3160, SA 315B, SA 316B, SA 316C, and SA 319B series helicopters, that requires installation of a supplemental outside air temperature (OAT) and velocity never exceed (V_{NE}) airspeed limitation flip chart placard for use in cold temperature operations and use of a new flight manual supplement. This amendment is prompted by several reports of excessive main rotor vibrations and associated cyclic and collective control feedback forces occurring under conditions of high altitude, high gross weight, cold temperatures, and high flight speeds when the helicopter is equipped with a certain design main rotor blade. The actions specified by this AD are intended to prevent excessive main rotor vibrations that could result in failure of rotor system components, and subsequent loss of control of the helicopter.

DATES: Effective February 17, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 17, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Les "Blades" de l'Helicoptere, Ltd., 5132 Greencrest Road, La Canada Flintridge, California 91011. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Lirio Liu, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425, telephone (310) 988–5229, fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Societe Nationale Industrielle Aerospatiale and Eurocopter France Model SE 3160, SA 315B, SA 316B, SA 316C, and SA 319B series helicopters when equipped with certain main rotor blades was published in the **Federal Register** on June 7, 1993 (58 FR 31922). That action proposed to require (1) installation of a supplemental outside air temperature (OAT) and velocity never exceed (V_{NE}) flip chart placard that applies to cold temperature operations and (2) use of a new flight manual supplement.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The only commenter states that the problem could be alleviated and it would be unnecessary to issue the AD if common sense were used and if airspeed was promptly reduced when experiencing excessive vibrations. The FAA concurs with the comment that slowing the helicopter will alleviate the condition but maintains that an AD is still necessary. The FAA believes that mandatory adherence to reduced airspeeds is necessary to avoid excessive vibration and possible fatigue damage to rotor system components. The AD requires pilots to comply with a Rotorcraft Flight Manual (RFM) supplement dated November 25, 1992, and a new OAT and V_{NE} airspeed limitation flip chart placard. This procedure is consistent with the "cold temperature" airspeed limitations approved during many rotorcraft certification programs.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with only editorial changes. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 35 helicopters of U.S. registry will be affected by this AD, that it will take approximately 1 workhour per helicopter to accomplish

the required actions, and that the average labor rate is $55 per workhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,925.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AD 93–23–04 Societe Nationale Industrielle Aerospatiale and Eurocopter France: Amendment 39–8738. Docket Number 93–SW–02–AD.

Applicability: Model SE 3160, SA 315B, SA 316B, SA 316C, and SA 319B series helicopters equipped with main rotor blades, part number (P/N) LOM3160–100 installed in accordance with Supplemental Type Certificate (STC) No. SH778GL, certificated in any category.

Compliance: Required within 25 hours' time-in-service after the effective date of this airworthiness directive (AD), unless accomplished previously.

To prevent excessive main rotor vibrations that could result in failure of rotor system components, and subsequent loss of control of the helicopter, accomplish the following:

(a) Install an outside air temperature (OAT) and velocity never exceed (V_{NE}) airspeed limitation flip chart placard, P/N LOM3160–151, on top of the instrument panel immediately to the right of the existing V_{NE} placard, using velcro strips as described in Les "Blades" De L'Helicoptere, Ltd. Service Information Letter No. 1–11–92A, dated December 3, 1992.

(b) After compliance with paragraph (a) of this AD, operate the helicopter in accordance with the Helicopter Flight Manual Supplement, approved and dated November 25, 1992, that is applicable to helicopters modified in accordance with STC SH778GL.

(c) An alternate method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished, provided the indicated airspeed is limited to no more than 50 knots.

(e) The installation shall be done in accordance with Les "Blades" de l'Helicoptere, Ltd. Service Information Letter No. 1–11–92A, dated December 3, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Les "Blades" de l'Helicoptere, Ltd., 5132 Greencrest Road, La Canada Flintridge, California 91011. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg. 3B, room 158, Fort Worth, Texas 76106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective February 17, 1994.

Issued in Fort Worth, Texas, on November 12, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–142 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–215–AD; Amdt. 39–8796; AD 94–01–14]

Airworthiness Directives; Canadair Model CL–600–2B19 (Regional Jet) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Canadair Model CL–600–2B19 (Regional Jet) series airplanes. This action revises the FAA-approved Airplane Flight Manual (AFM) to require that both integrated drive generators (IDG) be operational for dispatch. This AD also requires repetitive inspections of the IDG oil level, and replenishing with oil, if necessary; and, for certain airplanes, an inspection of the oil level, and replacement of the IDG with a serviceable unit. This AD also specifies an optional terminating action for the repetitive inspections and AFM revision. This amendment is prompted by reports of failures of the IDG constant speed drive (CSD) on Canadair Model CL–600–2B19 series airplanes. The actions specified in this AD are intended to prevent loss of engine oil and subsequent engine shutdown during flight.

DATES: Effective on January 28, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 28, 1994.

Comments for inclusion in the Rules Docket must be received on or before March 14, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–215–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Electrical Engineer, Systems and Equipment Branch, ANE–173, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6427; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Canadair Model CL–600–2B19 (Regional Jet) series airplanes. Transport Canada Aviation advises that there have been four reports of failures of the integrated drive generator (IDG) constant speed drive (CSD) on Canadair Model CL–600–2B19 series airplanes. One of these incidents resulted in engine shutdown during flight. Investigation revealed that the retaining ring, which restrains the CSD input shaft bearing, can become unseated from its positional groove on the input shaft. This condition could result in loss of IDG oil and subsequent disconnection of the IDG. In addition, the input shaft could move abnormally, which could cause damage to the engine seal. This condition, if not corrected, could result in loss of engine oil and subsequent engine shutdown during flight.

Bombardier Inc. has issued Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, Revision "A," dated December 1, 1993, that describes procedures for repetitive inspections of the IDG oil level, and replenishing with oil, if necessary. For airplanes on which the IDG has been disconnected during flight, the alert service bulletin describes procedures for inspecting the oil level, and replacement of the IDG with a serviceable unit.

The alert service bulletin also references Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–016, Revision "A," dated December 3, 1993, which describes procedures for accomplishment of a modification that would terminate the repetitive inspections and AFM revision. The modification involves installing a new bearing retainer and new input shaft bearings in the CSD units. Accomplishment of this modification will eliminate the loss of IDG oil and engine oil.

Transport Canada Aviation classified these alert service bulletins as mandatory and issued Canadian Airworthiness Directive CF–93–29, dated December 3, 1993, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent loss of engine oil and subsequent engine shutdown during flight. This AD revises the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to require that both IDG's be operational for dispatch. This AD also requires repetitive inspections of the IDG oil level, and replenishing with oil, if necessary. Additionally, for airplanes on which the IDG has been disconnected during flight, this AD requires replacement of the IDG with a serviceable unit. The inspections and replacement are required to be accomplished in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, described previously.

In addition, this AD provides an optional terminating modification, which, if accomplished, would terminate the repetitive oil level inspections and the AFM revision.

This is considered to be interim action. The FAA is considering further rulemaking action to require accomplishment of the optional terminating modification specified in this AD. However, the proposed compliance time for the modification is sufficiently long so that notice and opportunity for public comment would not be impracticable.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–215–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the

Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

94–01–14 Canadair Limited: Amendment 39–8796. Docket 93–NM–215–AD.

Applicability: Model CL–600–2B19 (Regional Jet) series airplanes, serial numbers 7003 through 7028 inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of engine oil and subsequent engine shutdown during flight, accomplish the following:

(a) Within 14 days after the effective date of this AD, add the following to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM. This AFM revision may be removed from the AFM if the optional terminating action specified in paragraph (d) of this AD is accomplished.

Both integrated drive generators must be operational for dispatch. **Note:** This overrides the current applicable Master Minimum Equipment List (MMEL) requirement.

(b) For airplanes on which the IDG has been disconnected during flight: Prior to further flight, inspect the integrated drive generator (IDG) oil level in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, Revision 'A,' dated December 1, 1993.

(1) If the oil level is on or below the "ADD" mark, prior to further flight, replace the IDG with a serviceable unit in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, Revision 'A,' dated December 1, 1993, or modify the IDG in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–016, Revision 'A,' dated December 3, 1993.

(2) If the oil level is above the "ADD" mark, replace the IDG with a serviceable unit in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, Revision 'A,' dated December 1, 1993; or modify the IDG in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–016, Revision 'A,' dated December 3, 1993. The action shall be accomplished prior to further flight, except that a special flight permit may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location in order to comply with the requirements of this paragraph, provided that the IDG remains disconnected.

(c) Within 14 days after the effective date of this AD, inspect the IDG oil level in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, Revision 'A,' dated December 1, 1993. If the oil level is on or below the "ADD" mark, prior to further flight, replenish with oil in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed 30 hours time-in-service.

(d) Modification of the IDG in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–016, Revision 'A,' dated December 3, 1993, constitutes terminating action for the requirements of this AD. If this modification is accomplished, the AFM revision required by paragraph (a) of this AD shall be removed from the AFM.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–015, Revision 'A,' dated December 1, 1993, and Canadair Regional Jet Alert Service Bulletin S.B.A601R–24–016, Revision 'A,' dated December 3, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(h) This amendment becomes effective on January 28, 1994.

Issued in Renton, Washington, on January 5, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–583 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing Overnight Option contracts on the 10-Year Australian Treasury Bond, 3-Year Australian Treasury Bond and the All-Ordinaries Share Price Index futures contracts traded on the Sydney Futures Exchange Limited ("SFE") to be offered or sold to persons located in the United States. This Order is issued pursuant to: Commission rule 17 CFR 30.3(a), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States; and the Commission's Order issued on July 20, 1988, (53 FR 28832, (July 29, 1988), authorizing certain option products traded on SFE to be offered or sold in the United States.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, DC 20581, 202–254–8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under Commission Rule § 30.3(a) Permitting Overnight Option Contracts on the 10-Year Australian Treasury Bond, 3-Year Australian Treasury Bond and All-Ordinaries Share Price Index Futures Contracts Traded on the Sydney Futures Exchange Limited to be Offered or Sold in the United States.

By Order issued on July 20, 1988 ("Initial Order"), the Commission authorized, pursuant to Commission rule § 30.3(a),[1] certain option products traded on the Sydney Futures Exchange Limited ("SFE") to be offered or sold in the United States. 53 FR 28832 (July 29, 1988). Among other conditions, the Initial Order specified that:

> Except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, * * * no offer or sale of any SFE option product in the United States shall be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to this Order * * *.

By letter dated November 24, 1993, the SFE requested that the Commission supplement its previous orders authorizing certain SFE options to be offered or sold to persons in the United States,[2] by also authorizing SFE Overnight Options on 10-Year Australian Treasury Bond, 3-Year Australian Treasury Bond and the All Ordinaries Share Price Index futures contracts, which are traded on the Sydney Futures Exchange Computerized Overnight Market ("SYCOM"), SFE's overnight electronic trading system, to be offered or sold to persons located in the United States.

Overnight Options are described by the SFE as short term options which provide investors with a means of hedging overnight risk exposure. The primary difference between Overnight Options and other existing SFE options is that Overnight Options have a lifespan that is valid only for the duration of a single SYCOM trading session (currently 4:40 p.m. to 4 a.m.). Moreover, Overnight Options are European style options (*i.e.*, exercise possible only at expiration) and are traded exclusively on SYCOM. Finally, the strike prices used for Overnight Options differ from the strike price intervals set for existing SFE options.

Accordingly, pursuant to Commission rule 30.3(a) and the Commission's Initial Order issued on July 20, 1988 and subject to the terms and conditions specified therein, the Commission hereby authorizes SFE's Overnight Options on the 10-Year Treasury Bond, 3-Year Treasury Bond and All Ordinaries Share Price Index futures contracts to be offered or sold to persons located in the United States effective as of the date of publication of this Order in the **Federal Register**.[3]

CONTRACT SPECIFICATIONS

Options on 10-year Treasury bond futures	Options on 3-year Treasury bond futures	Options on all-ordinaries share price index futures
Trading unit:		
One Sydney Futures Exchange (SFE) ten year treasury bond futures contract of A$100,000 notional value.	One SFE three year treasury bond futures contract of A$100,000 notional value.	A$25 times the index.
Trading hours:		
Coincide with Sydney Futures Exchange Computerized Overnight Market (SYCOM) trading session (presently 4:40 p.m. to 4:00 a.m.).	Same	Same.
Contract months:		
March, June, September, December (at present only futures front month is traded).	Same	Same.
Strike price interval:		
0.01% at-the-money (latest futures settlement price) and four above and four below.	Same	5 pts, AIM, 6+, 6−.
Minimum price fluctuation:		
0.005% of notional value (approx. A$37.00)	0.01% (approx. A$28.00)	0.1 All-Ordinaries Index points (A$25).
Expiration:		
Conclusion of each SYCOM trading session	Same	Same.
Style:		
European (exercise only at expiration)	Same	Same.
Trading medium:		
SYCOM	Same	Same.
Premiums:		
Multiples of 0.005% per annum	Same	0.1 index points.
Settlement:		
The arithmetical mean of bid and ask quotations in the underlying futures contract taken at the times of 8:32 a.m., 8:34 a.m., 8:36 a.m., 8:38 a.m. and 8:40 a.m., rounded to the nearest multiple of 0.005%. This price is then used to determine which strikes are automatically exercised.	Same except rounded to nearest multiple of 0.01%.	The arithmetical mean of bid and ask quotations in the underlying futures contract taken at the time of 9:55 a.m., 9:56 a.m., 9:57 a.m., 9:58 a.m., 9:59 a.m., 10:00 a.m., 10:01 a.m., 10:02 a.m., 10:03 a.m., 10:04 a.m. and 10:05 a.m., rounded to the nearest multiple of 0.1 point. This price is then used to determine which strikes are automatically exercised.

[1] Commission rule § 30.3(a) makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States.

[2] See 53 FR 28832 (July 29, 1988) (options on 90-day Bank Accepted Bills, 10-Year Treasury Bonds and Australian Dollars futures contracts); 53 FR 30673 (August 15, 1988) (options on 3-Year Treasury Bond futures contracts); and 56 FR 51650 (October 15, 1991) (options on All-Ordinaries Share Price Index futures contracts).

[3] As noted above, the Commission previously authorized, subject to a 30-day waiting period, the offer or sale of SFE option contracts on 3- and 10-year Australian Treasury Bond and All Ordinaries Share Price Index futures contracts. See n.2. The current request of the SFE would essentially trade similar option contracts, differing primarily only as to duration of contract, exercise and strike price. Under such circumstances, the Commission believes that a 30-day waiting period is not necessary.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign transactions.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix B to part 30 is amended by adding the following entry after the existing entries for "Sydney Futures Exchange" to read as follows:

APPENDIX B TO PART 30.—OPTION CONTRACTS PERMITTED TO BE OFFERED OR SOLD IN THE U.S. PURSUANT TO § 30.3(A)

Exchange	Type of contract	FR date and citation
• • • • •		
Sydney Futures Exchange	Overnight Options on 10-Year Treasury Bond, 3-Year Treasury Bond and the All-Ordinaries Share Price Index futures contracts.	January 13, 1994; 59 FR _____.
• • • • •		

Issued in Washington, DC on January 6, 1994.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94–710 Filed 1–12–94; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM93–20–000, Order No. 564]

Electronic Filing of FERC Form No. 1 and Delegation to Chief Accountant; Final Rule

Issued December 30, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to provide for delegation to the Chief Accountant of authority to act on requests for waiver of the FERC Form No. 1 and the FERC Form No. 1–F filing requirements. This will expedite the processing of such requests.

EFFECTIVE DATE: This rule is effective February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Richard Mattingly (Legal Information), Electric Rates and Corporate Regulation, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,Washington, DC 20426, (202) 208–2070; James G. Baird (Technical Information), Office of Chief Accountant, Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426, (202) 219–2613.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, at 941 North Capitol Street, NE, Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the text of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of the Final Rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE, Washington, DC 20426.

I. Introduction

On July 23, 1993, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking (NOPR)[1] in which the Commission proposed to amend 18 CFR Parts 141 and 385 to provide for the electronic filing of FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others" (Form 1). The Commission also proposed to amend 18 CFR part 375 to delegate to the Chief Accountant or his designee the authority to act on requests for waiver of the Form 1 and Form 1–F[2] filing requirements.

The Commission is issuing separately in this docket notice of its intent to delay implementation of the Form 1 electronic filing requirement pending development and testing of the necessary software.

In this order, the Commission is adopting a final rule amending its regulations to provide for the delegation of authority to the Chief Accountant or his designee to deny or grant (in whole or in part) waiver of the Form 1 and Form 1–F filing requirements. The language of the amendment is identical to that proposed in the NOPR.

II. Reporting Burden

There is no reporting burden associated with the delegation of authority to the Chief Accountant or his designee.

III. Discussion of Comments

Only one party, American Electric Power System (AEP), commented on the proposal to delegate authority to the Chief Accountant or his designee to rule on Form 1 and Form 1–F waiver requests. AEP supports the proposal. The Commission finds that the proposal is reasonable. Accordingly, the proposal will be adopted.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[3] requires rulemakings to contain either a description and analysis of the effect that a rule will have on small entities or to certify that the rule will not have a significant economic effect on a

[1] 58 FR 40606 (July 29, 1993); IV FERC Stats. & Regs. ¶ 32,498 (1993).

[2] FERC Form No. 1–F, "Annual Report of Nonmajor public utilities and licensees."

[3] 5 U.S.C. 601–612.

substantial number of small entities.[4] Because most Form 1 and Form 1–F respondents do not fall within the definition of small entity, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

IV. Information Collection Statement

The regulations of the Office of Management and Budget (OMB)[5] require that OMB approve certain information and recordkeeping requirements imposed by an agency. In this instance the rule being adopted does not impose any information or recordkeeping requirements, and there is thus no need to obtain OMB approval. However, the Commission is sending a copy of this order to OMB for information purposes.

V. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[6] However, no environmental consideration is necessary for actions that are procedural, ministerial, or internal administrative and management actions, programs or decisions,[7] or that are proposals for legislation or promulgation of rules that are clarifying, corrective, or procedural or that do not substantially change the effect of legislation or regulations being amended.[8] The final rule is such an action, and, accordingly, no environmental consideration is necessary.

VI. Effective Date

This final rule is effective February 14, 1994.

List of Subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends part 375 in chapter I, title 18, Code of Federal Regulations, as set forth below.

PART 375—THE COMMISSION

1. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–828r, 791a note, 2601–2645; 42 U.S.C. 7107–7532.

2. Section 375.303 is amended by adding paragraph (l) to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(l) Deny or grant, in whole or part, requests for waiver of the requirements for statements or reports under § 141.1 of this chapter (FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others) and § 141.2 of this chapter (FERC Form No. 1–F, Annual Report for Nonmajor Public Utilities and Licensees).

[FR Doc. 94–683 Filed 1–12–94; 8:45 am]

BILLING CODE 6717-01-P

[4] See 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, which defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

[5] 5 CFR 1320.14.

[6] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. Preambles 1986–90 ¶ 30,783 (1987).

[7] 18 CFR 380.4(a)(1).

[8] 18 CFR 380.4(a)(2)(ii).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4 and 123

[T.D. 93–96]

RIN 1515–AB31

Reporting Requirements for Vessels, Vehicles and Individuals; Correction

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in a final rule document published in the **Federal Register** on December 21, 1993, regarding reporting requirements for vessels, vehicles and individuals.

EFFECTIVE DATE: January 20, 1994.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton (202) 482–6940.

SUPPLEMENTARY INFORMATION: On December 21, 1993, Customs published a document in the **Federal Register** (58 FR 67312), that amended the Customs Regulations to implement certain provisions of the Customs Enforcement Act of 1986, a part of the Anti-Drug Abuse Act of 1986, designed to strengthen Federal efforts to improve the enforcement of Federal drug laws and enhance the interdiction of illicit drug shipments. The regulatory changes pertained to the arrival, entry, and departure reporting requirements applicable to vessels, vehicles, and individuals, and informed the public regarding applicable penalty, seizure and forfeiture provisions for violation of the provisions. A typographical error appeared in that document.

Correction

The error appears in the amended language of section 4.52, Customs Regulations, which is set forth on page 67317 of the December 21, 1993 **Federal Register**. In the second sentence of the section, there is an incorrect reference to "18 U.S.C. 1459"; the reference should read "19 U.S.C. 1459".

Dated: January 5, 1994.

Harold Singer,

Chief, Regulations Branch.

[FR Doc. 94–805 Filed 1–12–94; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Starch, Pregelatinized

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations that reflect approval of a new animal drug application (NADA) held by Shulcon Industries, Inc. The NADA provides for use of pregelatinized starch as an antidiarrheal in newborn calves. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 111–068 for use of Scourx® Calf Antidiarrheal (pregelatinized starch) in nonmedicated liquid feed or water for the symptomatic treatment (i.e., increasing fecal consistency) of nonspecific diarrhea in newborn calves. The NADA is held by Shulcon Industries, Inc., 4351 East Sarnac Dr., Tucson, AZ 86718. The agency is taking this action because the firm failed to respond to a notice of

opportunity for a hearing on a proposal to withdraw approval of the NADA due to the firm's failure to submit the reports required by 21 CFR 510.300. This document amends 21 CFR 510.600(c)(1) and (c)(2) to remove references to the firm because it is no longer the sponsor of an approved NADA, and removes 21 CFR 520.2155 to reflect the withdrawal of approval of this NADA.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Shulcon Industries, Inc.," and in the table in paragraph (c)(2) by removing the entry for "052292".

PART 520–ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.2155 [Removed]

4. Section 520.2155 *Starch, pregelatinized* is removed.

Dated: January 4, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–811 Filed 1–12–94; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Trichlorofon and Phenothiazine Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations that reflect approval of a new animal drug application (NADA) held by TPC Products, Inc. The NADA provides for use of the combination drug trichlorofon and phenothiazine as a parasiticide in horses. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of this NADA in addition to two others which are not codified.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 13–685 (in addition to two uncodified NADA's for other phenothiazine drugs) for use of the combination drug trichlorofon and phenothiazine as a parasiticide in horses. The NADA is held by TPC Products, Inc., P.O. Box 4308, 2021 North Grove St., Fort Worth, TX 76106. The agency is taking this action because the firm failed to respond to a notice of opportunity for a hearing on a proposal to withdraw approval of the NADA due to the firm's failure to submit the reports required by 21 CFR 510.300. This document removes 21 CFR 520.2520h to reflect the withdrawal of approval of the NADA. Additionally, because the firm is no longer the sponsor of an approved NADA, this document amends 21 CFR 510.600(c)(1) and (c)(2) to remove references to the firm.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "TPC Products, Inc.," and in the table in paragraph (c)(2) by removing the entry for "011531".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.2520h [Removed]

4. Section 520.2520h *Trichlorofon and phenothiazine powder* is removed.

Dated: January 4, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–853 Filed 1–12–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Regulatory Program; Show Cause Orders

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interor.

ACTION: Final rule; correction.

SUMMARY: OSM is correcting an error in the preamble to the final rule approving Indiana program amendment number 93–2 published on Thursday, November 18, 1993 (58 FR 60783).

EFFECTIVE DATE: This correction is effective November 18, 1993.

FOR FURTHER INFORMATION CONTACT: Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal

Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION: On page 60783, third column, third full paragraph, the last sentence is corrected to read as follows:

In a letter dated August 30, 1993, Indiana informed OSM that it should proceed with a final rulemaking and that issues raised in OSM's July 23, 1993, letter will be addressed in a future State program amendment (Administrative Record No. IND–1297).

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 7, 1994.

Carl C. Close,

Assistant Director, Eastern Support Center

[FR Doc. 94–893 Filed 1–12–94; 8:45 am]

BILLING CODE 4310-05-M

Proposed Rules

Federal Register
Vol. 59, No. 9
Thursday, January 13, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Regulation DD; Docket No. R–0812]

Truth in Savings; Proposed Regulatory Amendment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On December 6, 1993, the Board requested comment on a proposal to amend Regulation DD (Truth in Savings) dealing with the calculation of the annual percentage yield (58 FR 64190). The Secretary of the Board, acting pursuant to delegated authority, has extended the comment period for 30 days to give the public additional time to provide comments.

DATES: Comments must be received by February 14, 1994.

ADDRESSES: Comments, which should refer to Docket No. R–0812, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Jane Ahrens, Kyung Cho, Kurt Schumacher or Mary Jane Seebach, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412. For the hearing impaired only Telecommunications Device for the Deaf Dorothea Thompson (202) 452–3544.

SUPPLEMENTARY INFORMATION: The Board is extending the comment period on the proposed amendments to Regulation DD (Truth In Savings), to give the public additional time to comment on the proposal.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, January 7, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–842 Filed 1–12–94; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program; Disposal of Coal Fly Ash, Bottom Ash, and Scrubber Sludge

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of November 17, 1993, (Administrative Record No. KY–1260) Kentucky submitted a proposed program amendment that adds a new section to Kentucky's Administrative Regulations. The amendment consists of a proposed new section to Kentucky Administrative Regulations (KAR) at 405 KAR 7:200 relating to disposal of coal combustion fly ash, bottom ash and scrubber sludge under special waste permit-by-rule at 401 KAR 45:060 Section 1(6).

This document sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing if one is requested.

DATES: Written comments must be received on or before 4 p.m. on February 14, 1994. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on February 7, 1994. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on January 28, 1994. Any disabled individual who has need for a special accomendation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503.

Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this document will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2896.

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–2828.

Department of Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of

comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404–21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16 and 917.17.

II. Discussion of Amendment

By letter of November 17, 1993, (Administrative Record No. KY–1260) Kentucky submitted a proposed program amendment that adds a new section to Kentucky's Administrative Regulations. The amendment consists of proposed new section to Kentucky Administrative Regulations (KAR) at 405 (KAR) 7:200 relating to disposal of coal combustion fly ash, bottom ash and scrubber sludge under special waste permit-by-rule at 401 KAR 45:060 Section 1(6).

This proposed administrative regulation offers surface coal mining permittee the option to dispose of coal combustion waste on the permit area under the special waste permit-by-rule established at 401 KAR 45:060 Section 1(6). Applicants who obtain a permit from the Cabinet's Department for Surface Mining Reclamation and Enforcement under this proposed administrative regulation are deemed to have received a permit from the Cabinet's Department for Environmental Protection, Division of Waste Management, without having applied separately to the Division of Waste Management. A person who wishes to dispose of coal combustion waste on a surface mining permit area in a manner that is not authorized in this proposed administrative regulations may, as at present, apply separately to the Division of Waste Management for a special waste formal permit under 401 KAR 45:030.

Among other requirements, this proposed administrative regulation requires that disposal of coal combustion waste be approved in the surface mining permit; limits the waste to those coal combustion wastes authorized under 401 KAR 45:060 Section 1(6); requires identification of the generating facility; requires laboratory analysis to characterize the waste to show its potential to leach certain contaminants; restricts disposal to coal extraction areas of surface mines; limits waste volume at a location to the volume of coal extracted at that location; requires the permittee to keep records of the source and amount of shipments of waste received, and maps of disposal locations, and amounts; requires public notice of the intent to dispose of waste; requires written consent of the surface owner for disposal of waste on his property; requires a detailed plan for waste disposal; requires background characterization of ground water and surface water; requires the permittee's surface mining performance bond to be specifically applicable to waste disposal; requires compliance with certain environmental protection performance standards, including placement criteria that depend upon the leaching characteristics of the waste; and requires monitoring and reporting of quality of ground water and surface water.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicted under "**DATES**" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on January 28, 1994. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for the rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 7, 1994.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 94–894 Filed 1–12–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL–4824–9]

Open Meeting of the Architectural and Industrial (AIM) Maintenance Coatings Negotiated Rulemaking Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Announcement of meeting.

SUMMARY: The AIM Negotiated Rulemaking Advisory Committee will meet in Washington, DC to attempt to reach consensus that can be used as the basis of a proposed rule.

DATES: The meeting will take place on February 3 and 4. On February 3, we'll start at 9 a.m. and run until completion. On February 4, we'll start at 8:30 a.m. and end by 4 p.m.

ADDRESSES: The meeting will be held at the Georgetown Conference Center, 3800 Reservoir Road, Washington, DC, (202) 687–3232.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the rule should call Bruce Madariaga of EPA's Office of Air Quality Planning and Standards at 919–541–5290. Persons needing further information on meeting logistics should call Barbara Stinson the Committee Co-chair at 303–486–5822.

Dated: January 6, 1994.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 94–758 Filed 11–12–94; 8:45 am]

BILLING CODE 6560–60–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 571 and 572

[Docket No. 93–23]

Advance Notice of Proposed Rulemaking Concerning Section 6(g) of the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Advance Notice of Proposed Rulemaking; Extension of Time.

SUMMARY: The Commission by Advance Notice of Proposed Rulemaking published November 29, 1993 (58 FR 62616) sought comments on whether it should issue regulations or guidelines that would describe the Commission's enforcement policy with respect to section 6(g) of the Shipping Act of 1984, which authorizes the Commission to seek an injunction against substantially anticompetitive agreements. Upon request by the National Customs Brokers and Forwarders Association, the Commission has determined to grant a 30-day extension of time for filing comments, thus providing a total comment period of 90 days.

DATES: Comments due on or before February 28, 1994.

ADDRESSES: Send comments (original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573–0001, (202) 523–5840.

Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573–0001, (202) 523–5787.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 94–827 Filed 1–12–94; 8:45 am]

BILLING CODE 6730–01–M

Notices

Federal Register
Vol. 59, No. 9
Thursday, January 13, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 7, 1994.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contract person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

• Farmers Home Administration
7 CFR 1924–B, Management Advice to Individual Borrowers and Applicants
FmHA 431–1, 2, 4, 432–1, 2, 10; 1924–22, 23, 24, 27
Recordkeeping; on occasion
Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 23,935 responses; 1,428,799 hours
Jack Holston (202) 720–9736

Extension

• Agricultural Stabilization and Conservation Service
7 CFR 1421.551—5559—Subpart—Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed CCC–20, 24, 24–1, 25–1, 25–2, 26, 26–1, 26–2
Recordkeeping; On occasion, Annually
Businesses or other for-profit; 8,965 responses; 615,826 hours
Gene Williams (202) 720–2738

New Collection

• Agricultural Cooperative Service
Emerging Agriculture Cooperative: Key Factors for Formation and Success
One time only
Small businesses or organizations; 124 responses; 155 hours
Phillip F. Brown (202) 690–1406
• Agricultural Stabilization and Conservation Service
Automated Clearing House (ACH) Payee Participation Notice
KC–352
Recordkeeping; Quarterly
Businesses or other for-profit; Federal agencies or employees; 1,300 responses; 375 hours
Sandra Bearden (816) 926–6327

Reinstatement

• Agricultural Stabilization and Conservation Service
7 CFR 719, Farm Reconstitutions
ASCS–155
On occasion
Farms; 359,921 responses; 269,941 hours
JoAnne Franta (202) 720–5103
• Agricultural Stabilization and Conservation Service
7 CFR 781, Foreign Investment Disclosure Act Report
ASCS–153
Annually
Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 4,375 responses; 2,108 hours
William Brown (202) 720–6833
• Farmers Home Administration
7 CFR 1944–E, Rural Rental and Rural Cooperative Housing Loan
Policies, Procedures, and Authorizations
FmHA 1944–7, 30, 31, 33, 34, 35, 37, 38
On occasion
State or local governments; businesses or other for-profit; Nonprofit institutions; Small businesses or organizations; 25,165 responses; 143,735 hours
Jack Holston (202) 720–9736
• Agricultural Stabilization and Conservation Service
7 CFR 1468, Wool and Mohair Programs
CCC–1155, CCC–1155 (Supplement), CCC–1155A
Annually
Farms; 375,000 responses; 41,665 hours
Clarence Domire (202) 720–7673

Larry K. Roberson,
Deputy Department Clearance Officer.
[FR Doc. 94–882 Filed 1–12–94; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 940107–4007]

Foreign Availability Determination for Certain Telecommunications Transmission Equipment Controlled by ECCN 5A02A(a)

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: Under section 5(f) of the Export Administration Act (EAA) and part 791 of the Export Administration Regulations (EAR), the Department of Commerce determined on January 10, 1994, that foreign availability exists within the meaning of the EAA and the EAR for certain telecommunications transmission equipment to all COCOM-controlled destinations. The United States Government controls this equipment under ECCN 5A02A(a) of the Commerce Control List (CCL) (15 CFR 799.1, Supplement 1) of the EAR.

On October 6, 1993, the United States removed the national security-based validated export license requirements for exports of this telecommunications transmission equipment to most non-controlled countries by making this equipment eligible for export under General License GFW (58 FR 52179). The October rule revised ECCN 5A02A and other entries on the Commerce Control List to conform to changes in the International Industrial List maintained by governments participating in COCOM (the Coordinating Committee for Multilateral Export Controls). However, a validated

export license continues to be required to the following non-controlled destinations: Iran, Syria, Country Group S, and the South African military and police. A validated export license also continues to be required for exports of this equipment to all controlled destinations: Country Groups Q, W, Y, and Z, and the People's Republic of China.

The January 10, 1994, determination is limited to certain telecommunications transmission equipment operating according to the synchronous digital hierarchy (SDH) at digital transfer rates up to 623 million bits per second (mbps), and does not include the design, development, and production technology for SDH equipment that United States controls under ECCN 5E02A.

The January 10, 1994, determination does not result in the immediate removal of validated licensing requirements for this equipment to controlled destinations. As provided for by the Export Administration Act, the United States will enter into negotiations with its allies so as to preserve our shared security interests with respect to this equipment and to reach agreement as to what future export restrictions may be necessary to preserve those interests. Consistent with the provisions of section 5 of the EAA and part 791 of the EAR, the Commerce Department will take appropriate action by May 9, 1994, to remove national security-based validated license requirements for exports of this telecommunications transmission equipment to most controlled destinations.

FOR FURTHER INFORMATION CONTACT: For questions concerning the October 6, 1993 regulation change (58 FR 52179), contact Dale Jensen, Office of Technology and Policy Analysis, Telephone: (202) 482–0730.

For questions concerning the foreign availability assessment, contact Michael Andrews, Foreign Industrial Analyst, Office of Foreign Availability, Bureau of Export Administration, Department of Commerce, Telephone: (202) 482–0074.

SUPPLEMENTARY INFORMATION:

Background

Section 5(f)(3) of the EAA and part 791 of the EAR set forth the procedures and criteria for determining the foreign availability of items controlled for national security reasons. The Secretary of Commerce, or the Secretary's designee, is authorized to determine whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to countries when the Department determines that items of comparable quality are available, in fact, to such countries from foreign sources in quantities sufficient to render the controls ineffective in achieving their purpose.

On August 9, 1993, the Office of Foreign Availability (OFA) initiated a foreign availability assessment of certain telecommunications transmission equipment controlled by ECCN 5A02A in response to a claim filed pursuant to section 791 of the EAR. The Department published a notice of the initiation of the assessment in the **Federal Register** on September 2, 1993. (58 FR 46625).

On December 9, 1993, the Assistant Secretary, having considered the assessment and other relevant information provided by OFA and other concerned agencies, made a preliminary determination that foreign availability exists to controlled countries, within the meaning of section 5(f) of the EAA and part 791 of the EAR, for certain SDH telecommunications transmission equipment operating at digital transfer rates up to 623 mbps. Consistent with the EAA, the Department provided all interested agencies an opportunity to review and comment on the assessment and determination during a one month period.

On January 10, 1994, the Assistant Secretary made a final determination that foreign availability exists for certain telecommunications transmission equipment to COCOM-controlled destinations.

As a result of an October 6, 1993, regulatory action (58 FR 52179), exports of the above telecommunications transmission equipment no longer require a validated license for national security reasons to most destinations in Country Group T or V. Subject to the restrictions in § 771.2(c), U.S. exporters of this telecommunications transmission equipment may export it under General License GFW to most destinations in Country Groups T and V. General license GFW is not available for exports to Iran, Syria, the People's Republic of China or the South African military or police; and the United States continues to require a validated license for exports of all telecommunications transmission equipment controlled by ECCN 5A02A to these destinations. Exporters should also be aware that the Department of the Treasury's Office of Foreign Assets Control maintains an embargo on other destinations, such as Iraq, Haiti, and the Federal Republic of Yugoslavia (Serbia and Montenegro).

A validated license requirement also continues to apply to exports of all telecommunications transmission equipment controlled by 5A02A to all destinations in Country Groups Q, S, W, Y, and Z, and the People's Republic of China. Foreign policy-based validated license requirements remain in effect for exports to Iran or Syria of all equipment controlled by 5A02A. All other foreign policy-based validated license requirements also remain in effect.

This determination is limited to certain SDH telecommunications transmission equipment operating at digital transfer rates up to 623 million bits per second (mbps), and does not include the design, development, and production technology for SDH equipment that United States controls under ECCN 5E02A.

As mentioned above, the January 10, 1994, determination does not result in the immediate removal of validated licensing requirements for this equipment to controlled destinations. As provided for by the Export Administration Act, the United States will enter into negotiations with its allies so as to preserve our shared security interests with respect to this equipment and to reach agreement as to what future export restrictions may be necessary to preserve those interests. Consistent with the provisions of section 5 of the EAA and part 791 of the EAR, the Commerce Department will take appropriate action by May 9, 1994, to remove national security-based validated license requirements for exports of this telecommunications transmission equipment to most controlled destinations.

Dated: January 10, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94–913 Filed 1–10–94; 4:55 pm]

BILLING CODE 3510–DT–P

Foreign-Trade Zones Board

[Docket No. 1–94]

Foreign-Trade Zone 104—Savannah, Georgia; Application for Subzone, Merck & Co. Pharmaceutical Plant, Dougherty County, GA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Savannah Airport Commission, grantee of FTZ 104, requesting special-purpose subzone status for the pharmaceutical manufacturing facility of Merck & Co., Inc., (Merck) in Dougherty County, Georgia. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended

(19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 3, 1994.

Merck is one of the world's largest pharmaceutical manufacturers with nearly $9 billion in total sales in 1991. Its primary product lines include: patented prescription and over-the-counter pharmaceutical products, veterinary pharmaceuticals and agricultural and specialty chemicals. This proposal is part of an overall company cost reduction effort (Subzone status is being requested for seven other Merck facilities).

Merck's Georgia plant (800 acres, 283,910 sq. ft., 35 bldgs.) is located at 3517 Radium Springs Road, Dougherty County, Georgia, 7 miles southeast of Albany and some 180 miles southwest of Savannah. The facility (310 employees) is used to produce bulk pharmaceutical chemicals and intermediates used in Merck's human and animal health products. Company plans call for expansion of plant facilities to include refrigerated storage and tank farms.

At the outset, zone procedures would be used primarily for the production of Cefoxitin, Omeprazole, and Losartan. Zone procedures could also include production of remoxipride hydrochloride, TRUSOPT, and chlorsulon. Currently, foreign-sourced materials account for 10 to 20 percent of finished product value and include the following specific ingredients: TAC (Thienylscetyl chloride), P–TSC (Paratoluenesulfonchloride), metmereazole, pyrmethyl alcohol, imidazole intermediate, bromo benzyl bromide, S-2-Aminomethyl-1-ethyl pyrollidone, N-Bromo-Succinimide, hydroxy sulfone, M-Nitro benzaldehyde. The company also may purchase from abroad other active ingredients and items in the following general product categories: gums, starches, waxes, vegetable extracts, mineral oils, phosphoric acid, hydroxides, hydrazine and hydroxylamine, chlorides, phosphates, carbonates, hydrocarbons, alcohols, phenols, ethers, epoxides, acetals, aldehydes, ketone function compounds, mono- and polycarboxylic acids, phosphoric esters, amine-, carboxymide, nitrile- and oxygen-function compounds, heterocyclic compounds, sulfonamides, vitamins, hormones, sugars, antibiotics, gelatins, enzymes, color lakes, soaps and detergents, medicaments, and pharmaceutical products. The company may also source from abroad insecticides, rodenticides, fungicides and herbicides for use in agricultural/veterinary products.

Zone procedures would exempt Merck from Customs duty payments on foreign materials used in production for export. On domestic sales, the company would be able to choose the duty rates that apply to the finished products (duty-free to 23.5%, most falling in the 3.7% to 16.6% range). The duty rates on foreign-sourced items range from duty-free to 23.5 percent, with most falling in the 3.7%–20% range. The application indicates that the savings from zone procedures will help improve the firm's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is on March 14, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 29, 1994).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Port Director, Port of Savannah, U.S. Customs Service, Southeast Region, 1 East Bay Street, Savannah, Georgia 31401.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: January 3, 1994.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 94–885 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-P

[Docket No. 3–94]

Foreign-Trade Zone 46—Cincinnati, Ohio Area Application for Relocation/Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign Trade Zone, Inc., grantee of FTZ 46, requesting authority to relocate and expand its zone in the Cincinnati, Ohio, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 6, 1994.

FTZ 46 was approved on January 12, 1979 (Board Order 141, 44 FR 4003, 1/19/79), authorizing a general-purpose foreign-trade zone in Butler County, Ohio. The zone currently involves a site (17 acres) located at 2940 Highland Drive, Cincinnati.

The applicant is now requesting authority to relocate the zone to a larger site (35 acres) located at 175 Progress Place in the City of Springdale, Hamilton County, Ohio, 17 miles north of downtown Cincinnati. The site contains a warehouse facility (1.1 million sq. ft.) owned by Avon Products, Inc. (Avon). Avon is presently using 800,000 sq. ft. of the facility for manufacturing and warehouse/distribution functions. The remaining 300,000 square feet is being developed as a warehouse/office-park type facility.

Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period of their receipt is on March 14, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 29, 1994).

A copy of the application and accompanying exhibits will be available for public inspections at each of the following locations:

U.S. Department of Commerce, 9504 Federal Building, 550 Main St., Cincinnati, Ohio 45202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: January 6, 1994.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–886 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-P

[Docket No. 2–94]

Foreign-Trade Zone 39—Dallas/Fort Worth, TX Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Dallas/Fort Worth International Airport Board, grantee of

FTZ 39, requesting authority to expand its zone in the Dallas/Fort Worth, Texas, area, adjacent to the Dallas/Fort Worth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 4, 1994.

FTZ 39 was approved on August 17, 1978 (Board Order 133, 43 FR 37478, 8/23/78) and expanded on December 11, 1992 (Board Order 613, 57 FR 61046, 12/23/92). It currently consists of 2,400 acres within the 18,000-acre Dallas/Fort Worth International Airport complex.

The applicant is now requesting authority to expand the general-purpose zone to include a site (552 acres) at the Grayson County Airport, located in Grayson County, seven miles southwest of Denison, Texas, and some 60 miles northeast of the Dallas/Fort Worth area. The proposed zone site consists of 3 parcels (431 acres) within the 1,100-acre airport complex and a parcel (121 acres) adjacent to the airport on Highway 1417, owned by Reedrill, Inc. The site would be operated by the DFW Airport Board in conjunction with the Grayson County Airport Board.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is on March 14, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 29, 1994).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 2050 N. Stemmons Freeway, Suite 170, Dallas, Texas 75258.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: January 4, 1994.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–887 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A–588–832, A–421–806]

Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Color Negative Photographic Paper and Chemical Components Thereof From Japan and the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: John Beck or Bill Crow, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3464 and 482–0116.

Postponements

On September 20, 1993 (58 FR 50331, September 27, 1993), the Department of Commerce (the Department) issued a notice of the initiation of antidumping duty investigations of color negative photographic paper and chemical components thereof from Japan and the Netherlands. On November 15, 1993, the Department presented Fuji Photo Film Company Ltd. of Japan and its related U.S. entity, Fuji Photo Film U.S.A. Inc., (hereinafter referred to collectively as "Fuji") with its antidumping duty questionnaire. On November 19, 1993, the Department presented Fuji Photo Film B.V. of the Netherlands, Fuji Photo Film Europe, and their related U.S. entity, Fuji Photo Film U.S.A. Inc.,(hereinafter referred to collectively as "Fuji"), with its antidumping duty questionnaire.

On December 14, 1993, Fuji submitted a statement in support of the Department postponing the preliminary determinations in these investigations. On December 23, 1993, Eastman Kodak Company, petitioner in these investigations, requested that the Department postpone the preliminary determinations in these investigations pursuant to section 733(c)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(c)(1)) and section 19 CFR 353.15(c). Petitioner made this request in order to allow the Department time to adequately analyze the complex responses to be submitted by Fuji in these investigations. We find no compelling reasons to deny this request. Accordingly, we hereby extend the due date for the preliminary determinations until not later than March 29, 1994, which is 210 days after the date of filing of the petition.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: January 6, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–890 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-P

[A–122–822]

Corrosion-Resistant Carbon Steel Flat Products From Canada: Termination of Antidumping Changed Circumstances Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen Jacques or Rick Johnson, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3793.

SUMMARY: On October 26, 1993, National Steel Corporation (National) requested that the Department of Commerce (Department) terminate the changed circumstances administrative review of DNN Galvanizing Corp. (DNN). The Department is now terminating this review, and liquidation of imports of corrosion-resistant steel from DNN will continue to be suspended at the current rate.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1993, the Department received a request from National to conduct immediately a changed circumstances review of imports of corrosion-resistant steel from DNN pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act). National indicated that DNN had begun tolling steel to which National held title after the period of investigation. National alleged that liquidation of its imports of tolled steel was being suspended at a rate based on untolled sales. On September 14, 1993, the Department initiated this review, after determining that these allegations by National constituted sufficient good

cause to warrant initiating a changed circumstances review before the end of the second annual anniversary month of the antidumping duty order.

On October 26, 1993, National indicated to the Department that it no longer desired a review of DNN's sales, and requested that the Department terminate this review.

One of the bases of good cause for conducting this review was that DNN had begun to toll steel from National, and that, as a result, a rate for untolled steel was being applied to National's tolled steel. As National has now indicated that it is no longer interested in a review of imports of that steel, the Department concludes that there is no longer good cause to conduct this review, as required by section 751(b)(2) of the Act and 19 CFR 353.22(f)(3).

Accordingly, the Department has decided to terminate the changed circumstances administrative review. This notice is published pursuant to section 751(b) of the Act and § 353.22(f) of the Department's regulations (19 CFR 353.22(f)).

Dated: January 5, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–888 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-M

[A–588–829]

Notice of Final Determination of Sales at Less Than Fair Value: Defrost Timers From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Bill Crow, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0116.

FINAL DETERMINATION: We determine that defrost timers from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value and the postponement of the final determination in this investigation on August 24, 1993 (58 FR 44655, August 24, 1993), the following events have occurred. On September 15, 1993, Sankyo Seiki Manufacturing Co. Ltd. (Sankyo) submitted its response to the Department's second deficiency letter. On September 30, 1993, the Department sent Sankyo the agenda outlining the format of the Department's verification of Sankyo's responses. From October 18 through October 22, 1993, the Department conducted the verification of Sankyo's questionnaire response in Japan. On November 26, 1993, petitioner submitted its case brief in this investigation. On December 2, 1993, Sankyo submitted its rebuttal brief in this investigation.

Scope of Investigation

For purposes of this investigation, defrost timers are electro-mechanical and electronic defrost timers for residential refrigerators. Electro-mechanical defrost timers are comprised of several components that make or break electric circuits by activating two sets of electrical contact points—one to disconnect the compressor (the cooling mechanism) and the other to connect the defrost heater. The articles are equipped with a synchronous or subsynchronous motor. The defrost timer disconnects the compressor by opening an electrical circuit after the compressor itself has run for a length of time predetermined by the manufacturer depending on the specifications of the model. Upon completion of the compressor run cycle (and simultaneously with the compressor's disconnection) the defrost heater is activated and runs for a preset time (again depending on the model), as predetermined by the manufacturer. Electronic defrost timers have a similar function but operate with greater efficiency. This is because a microprocessor in the device uses information gathered during the defrost cycle to adjust the compressor run time. This system defrosts only when needed, thereby improving the efficiency of the refrigerator.

The defrost timers subject to this investigation are currently classifiable under subheading 9107.00.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Period of Investigation (POI)

We initiated this investigation using a six-month POI from July 1, 1992, through December 30, 1992. In order to capture U.S. sales made pursuant to long-term contracts, we expanded the POI to include two additional six-month periods (i.e., April 30–September 30, 1991, and October 1, 1991–March 31, 1992). Respondent reported home market sales in these periods to correspond to U.S. sales contracted in July 1991 and January 1992, respectively (see memorandum from Richard Moreland to Barbara Stafford dated June 4, 1993).

Best Information Available

We have determined, in accordance with section 776(b) and 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of subject merchandise in this investigation. In deciding whether to use BIA, section 776(b) provides that the Department shall use BIA if it is unable to verify the accuracy of the information submitted. Further, section 776(c) provides that the Department may take into account whether the respondent was able to produce information requested in a timely manner and in the form required. In this case, Sankyo did not do so.

The Department also took into consideration whether or not the respondent cooperated with the Department. In this case, while its submissions contained significant deficiencies, and could not be completely verified, the respondent was cooperative. As BIA for Sankyo, we are assigning the average margin contained in the petition, in accordance with the two-tiered BIA methodology under which the Department imposes a less adverse rate upon those respondents that cooperate in the proceeding. The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See *Allied-Signal Aerospace Co. v. the United States*, Appeal No. 93–1049 (Fed. Cir. June 22, 1993); see also *Krupp Stahl AG. et al v. the United States*, 822 F. Supp. 789 (CIT May 26, 1993).) The average of the margins contained in the petition is 83.67 percent. For a more detailed discussion of the Department's decision to use BIA in this case, see the December 16, 1993, memorandum from David Binder to Barbara Stafford.

Interested Party Comments

Comment 1: Petitioner argues that due to the various discrepancies and deficiencies discovered by the Department at verification, the Department should use the dumping margins calculated in the petition as BIA. Petitioner bases its request for the use of BIA on the portion of home market sales omitted from respondent's

sales listing, the improper matching of certain U.S. and home market models, the unverifiable assembly costs included in the difference in merchandise (difmer) adjustment, the unverifiable warranty expenses, and the pattern of contracting which existed for home market sales and which called into question respondent's reported home market sales.

Respondent, on the other hand, argues that the Department should reject petitioner's request for the use of BIA across the board because respondent has cooperated in the investigation and because the large majority of its response has been verified as complete. Therefore, respondent requests that the Department limit the use of BIA only to those instances where deficiencies or discrepancies were found during verification.

DOC Position: We agree with petitioner. We learned at verification of home market sales which respondent omitted from its reported database. In addition, we discovered that respondent had eliminated many sales because it believed them not to be subject to the investigation based on the channel of trade and/or ultimate use of the timer models in question; however, respondent had not disclosed these eliminations in its responses to the Department's questionnaire. Because of these late revelations, the Department was not able to structure verification to scrutinize thoroughly these unreported sales. We also established that a pattern of contracting existed for home market sales which raises questions as to the validity of respondent's determination of home market date of sale. The use of contract dates in the home market, rather than the reported order entry dates, would change completely the selection of transactions used to calculate foreign market value. In combination with other discrepancies, these problems call into question the reliability of the home market database.

We also learned at verification that a very significant portion of U.S. products representing a majority of U.S. sales had not been matched correctly to home market models in accordance with the instructions contained in Appendix V of the Department's questionnaire. The Department cannot be responsible for rematching this large percentage of the total data base. Further, the mismatched U.S. models could only be re-matched to a limited set of similar home market sales for which no difmer information had been provided by respondent. Therefore, the majority of U.S. sales would be subject to some form of BIA. In combination with other discrepancies, these problems call into question the reliability of the entire U.S. database. Due to the number and extent of the discrepancies discovered at the verification, the Department is basing the final determination in this investigation on BIA.

In spite of the outcome at verification, we find that the respondent cooperated in this investigation. The numerous mistakes, omissions and deficiencies which were not corrected, clarified or amplified in a timely manner require the use of BIA. While some of these deficiencies, by themselves, may not have led to the use of total BIA, the collective discrepancies and deficiencies discovered at verification undermine the basic reliability of the submitted information.

Given the Department's use of BIA, other comments submitted by the parties in their briefs in this investigation are moot, and will not be addressed in this notice.

Continuation of Suspension of Liquidation

In accordance with section 735 of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of defrost timers produced or exported from Japan, that are entered, or withdrawn from warehouse, for consumption on or after August 24, 1993. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
Sankyo Seiki Manufacturing Co. Ltd	83.67
All others	83.67

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: January 6, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–891 Filed 1–12–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–805, A–580–809, A–351–809, A–307–805]

Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Circular Welded Non-Alloy Steel Pipe From Brazil, the Republic of Korea, Mexico and Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary affirmative determination of scope inquiry.

SUMMARY: We preliminarily determine that (1) pipe certified to American Petroleum Institute (API) 5L line pipe specifications (API 5L line pipe or line pipe) and (2) pipe certified to both the API 5L line pipe specifications and the less stringent American Standard Testing and Materials (ASTM) A–53 standard pipe specifications (dual-certified pipe), when actually used as certain circular welded non-alloy steel pipe (standard pipe), and falling within the physical parameters outlined in the scope of the orders, are within the scope of the antidumping duty orders on standard pipe from Brazil, the Republic of Korea, Mexico and Venezuela. We will direct the U.S. Customs Service to suspend liquidation of these products as follows: (1) All dual-certified pipe and API 5L line pipe falling within the physical parameters outlined in the scope of the orders that enter without an end-use certificate and (2) all dual-certified pipe and API 5L line pipe falling within the physical parameters outlined in the scope of the orders that enter with an end-use certificate certifying end use in a standard pipe application. No suspension of liquidation is required for dual-certified pipe and API 5L line pipe that enters with an end-use certificate certifying end use in a line pipe application. Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Kimberley Huffman at (202) 482–0780 or Wendy Frankel at (202) 482–5253, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department

of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1993, the petitioners in the original less-than-fair-value investigations (Allied Tube & Conduit Corporation, Sawhill Tubular Division, Tex-Tube Division American Tube Company, Century Tube Corporation, Laclede Steel Company, LTV Tubular Products Company, Sharon Tube Company, Western Tube & Conduit Corp., Wheatland Tube Company, and CSI Tubular Products, Inc.) filed anticircumvention petitions with the Department of Commerce (the Department) arguing, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 353.29(g) (1992), that exports from Korea, Mexico and Brazil of API 5L line pipe and dual-certified pipe are circumventing the antidumping duty orders on standard pipe when they are actually used in standard pipe applications. The Department determined that a scope inquiry pursuant to 19 CFR 353.29(i) was the appropriate approach to address the issues raised by petitioners.

Exports of standard pipe from Venezuela were the subject of a concurrent antidumping investigation. The scope of the resulting affirmative order is exactly the same as that of Mexico, Korea and Brazil. For this reason, even though in their original petition for an anticircumvention investigation petitioners did not request that imports from Venezuela be examined, we determined in our October 25, 1993, recommendation memorandum, on file at the Central Records Unit, room B099, of the Department of Commerce Main Building, that it is appropriate in the context of the present scope inquiry to clarify whether imports of line pipe and dual-certified pipe, when actually used as standard pipe and fall within the physical parameters outlined in the scope of the orders, are within the scope of the antidumping duty order on standard pipe from Venezuela.

The scope of the order on standard pipe from Taiwan, another concurrent investigation, differs from that of the remaining orders. See 57 FR 49454 (1992). Therefore, this scope determination does not apply to the scope of the Taiwanese order.

The Department initiated its scope inquiry on June 7, 1993, and granted interested parties the formal opportunity to comment on whether API 5L line pipe and dual-certified pipe, when used in standard pipe applications and falling within the physical parameters outlined in the scope of the orders, are within the class or kind of merchandise subject to the orders. We received comments on July 6, 1993, from petitioners and six respondents, and rebuttal comments on July 19, 1993. In addition, the Department later provided interested parties the opportunity to meet individually with the Acting Assistant Secretary for Import Administration to further discuss how the Department should properly resolve this inquiry. Petitioners and five respondents participated in the meetings. Due to the significant difficulty presented by this scope inquiry, we have determined that it is appropriate to issue a preliminary determination.

Under 19 CFR 353.29(i), the Department first examines the descriptions of the subject merchandise contained in the petition, the initial investigations, and the Department's and ITC's determinations. The regulations provide that if it determines these descriptions are not dispositive, the Department will consider the factors provided for under 19 CFR 353.29(i)(2), known commonly as the Diversified Products criteria. *See Diversified Products Corp.* versus *United States*, 572 F. Supp. 883 (CIT 1983).

In our recommendation memorandum, of October 25, 1993, we found that the specifications of API 5L line pipe and dual-certified pipe encompass the less demanding specifications for standard pipe. We determined that it was unclear as to whether the orders "included API 5L line pipe and dual-certified pipe within the scope whenever those categories of pipe are actually used in a standard pipe application" based upon the following: the overlap in physical parameters, the Department's conclusion that both dual-certified pipe and line pipe can be and sometimes are actually used in standard pipe applications, and the ambiguity in the orders and descriptions of the subject merchandise from the original investigations. See the Department's Recommendation Memorandum dated October 25, 1993. Therefore, on October 27, 1993, the Department requested that the interested parties comment on the Diversified Products criteria provided for under 19 CFR 353.29(i)(2). These criteria include: (i) The physical characteristics of the product; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; and (iv) the channels of trade. See 19 CFR 353.29(i)(2). The following interested parties filed comments and rebuttals on November 22, 1993, and December 3, 1993, respectively: Allied Tube & Conduit Corporation, Sawhill Tubular Division, Tex-Tube Division American Tube Company, Century Tube Corporation, Laclede Steel Company, LTV Tubular Products Company, Sharon Tube Company, Western Tube & Conduit Corp., Wheatland Tube Company, and CSI Tubular Products, Inc., collectively referred to as petitioners; Mannesmann Pipe & Steel Corporation; Korea Iron and Steel Association, Dongbu Steel Co., Ltd., Hyundai Steel Pipe Co., Ltd., Korea Steel Pipe Co., Ltd., Pusan Steel Pipe Co., Ltd. and Union Steel Manufacturing Co., Ltd. (Korea), collectively referred to as the Korean respondents; and HYLSA, S.A. de C.V., referred to as HYLSA.

Analysis

General Issues: The purpose of the Department's scope inquiry is to determine whether dual-certified pipe and API 5L line pipe, when used in a standard pipe application and which fall within the physical parameters outlined in the scope of the orders, are within the scope of the orders. *See* the Department's October 25, 1993, Recommendation Memorandum.

In this regard, respondents argue initially that the Department has improperly read into the scope a possible use requirement and that to determine that line and dual-certified pipe are covered on this basis would amount to an impermissible expansion of the scope of the orders. In support of this position, the Korean respondents distinguish between what they refer to as a pipe product's "chief end use" and the "actual use" to which the pipe is put. They argue that within the pipe industry it is recognized that line and dual-certified pipe (as well as standard pipe) are intended for use in certain applications—their "chief end uses"—a fact which is made explicit by their industry labeling. The Korean respondents argue that the orders exclude these categories of pipe based upon an assumption that these chief end uses differ from those of standard pipe, without reference to the question of how they are actually used. They cite *Ipsco, Inc.* versus *United States*, 715 F. Supp. 1104 (CIT 1989), to argue that absent such an explicit reference to actual use, the Department may not concern itself now with actual use. Therefore, the Korean respondents argue that there is no basis for the Department to resort to the *Diversified Products* criteria under 19 CFR 353.29(i)(2).

We disagree. Besides providing a physical description of standard pipe,

the orders state that "[s]tandard pipes and tubes *are intended for* the low pressure conveyance of water, steam, natural gas," and other related uses, as well as light load bearing and mechanical applications. Antidumping Orders, 57 FR 49452, 49453 (1992) (emphasis added). The issue raised by respondents, which the Department's recommendation memorandum did not directly address, concerns the proper interpretation to be given the phrase "are intended for" certain uses. Respondents are correct that, in using this phrase in the orders, the Department did not expressly refer to actual use (nor did we refer to actual use in the orders wherein we appeared to exclude line pipe and certain dual or triple certified pipe). At the same time, however, as indicated in our recommendation memorandum, neither did the Department expressly limit the phrase "are intended for" to "chief end uses" nor stenciling indicative of standard pipe. Thus, as a threshold matter, the orders and the descriptions from the underlying investigations do not preclude the Department from considering the actual end use to which a particular type of pipe product (regardless of stenciling) is put in determining whether that type of product is "intended for use" as standard pipe and, therefore, covered by the orders on standard pipe.

The issue herein closely resembles the issue addressed in *Ipsco*, a case arising from a scope inquiry concerning oil country tubular goods (OCTG) from Canada. The Department had defined the subject merchandise as, " 'hollow steel products of circular cross-section intended for use in drilling for oil and gas.' " *Ipsco*, 715 F. Supp. at 1105 (quoting OCTG from Canada, 51 FR 21,782, 21,1783 (1986)) (emphasis added by Court). At issue was whether, later, the Department had reasonably clarified the scope of the orders, and in particular the phrase "intended for use in drilling for oil and gas," as covering not only API specification OCTG pipe but " 'all other pipe with [certain specified] characteristics used in OCTG applications. . . .' " *Ipsco* at 1105 (quoting the Department's unpublished scope ruling). In reaching this determination, the Department also provided an additional description of the covered merchandise, and instituted an end-use certification procedure. See *Ipsco*.

The Court of International Trade (Court) upheld the Department's determination, disagreeing with "plaintiffs' contention that a pipe's stencil or marking should be regarded as conclusive evidence of the pipe's intended use * * * when such pipe possesses all of the physical characteristics which would enable it to be used as OCTG." *Id.* at 1108. The Court added:

> Although stencilling or marking may be strong evidence of what the manufacturer considers to be the product's intended use, such labelling does not necessarily reflect an importer or end-user's view of the product's intended use, nor does it prevent the pipe from actually being used as OCTG. As indicated in the record, a knowledgeable engineer may use for drilling purposes any pipe that meets the minimum requirements for OCTG.

Id.

The Court went so far as to hold that the Department "acted reasonably in rejecting plaintiffs' suggested approach which would allow manufacturers and importers to evade the imposition of duties by simply labelling OCTG pipe as non-OCTG pipe sharing the same physical characteristics." *Id.* The Court's decision endorsed the Department's argument that "the stencilling or marking of pipe is a voluntary practice which is not required by the API or any other governmental or private authority, [and] . . . the labelling and marking of pipe as standard or line pipe is meaningless within the context of these orders." *Id.* at 1107–08.

Thus, a central issue in *Ipsco*, as here, concerned the meaning of the phrase "intended for use" in certain specified applications. There, the Department interpreted the phrase as permitting an inquiry into how the pipe at issue was actually used. Here, the Department determines that the phrase, when read in conjunction with the remainder of the scope descriptions in the orders, does not clearly include or exclude line pipe or dual-certified pipe falling within the physical parameters outlined in the scope of the orders which is actually used in standard pipe applications. Thus, we must resort to a Diversified Products analysis.

Physical Characteristics: Respondents argue that the physical differences between standard pipe and line pipe/dual-certified pipe are significant enough to warrant a determination that standard pipe and line pipe/dual-certified pipe constitute separate classes or kinds of merchandise, especially due to such factors as (1) chemical composition, (2) end finish and couplings and (3) weight and dimensional tolerances. We note that, although certain respondents discuss dual-certified pipe separately from line pipe, respondents argue generally that dual-certified pipe falls within the class or kind of merchandise of line pipe, which they claim is separate from standard pipe (regardless of the actual use of a particular pipe).

According to respondents, with regard to chemical composition, the allowable chemical tolerances for carbon, manganese, phosphorus and sulfur are different for line pipe and standard pipe. Respondents assert that the requirements for end finish and couplings also differ significantly between the two kinds of pipe. For example, the coupling diameter under API 5L specifications is, on average, 17.09 percent greater than the coupling diameter required under ASTM A–53 specifications. Similarly, the specified end taper finish for ASTM A–53 standard pipe (0.750" per foot) is more than ten times that mandated for API 5L specifications (0.0625" per foot). With regard to weight and dimensional tolerances, respondents point out that ASTM A–53 specifications permit a larger variance in diameter than API 5L specifications. The API 5L specifications impose an upper limit on variance in wall thickness, while ASTM A–53 does not. For weight tolerances, ASTM A–53 specifications permit a lower limit variance of up to 10 percent, while API 5L specifications permit a lower limit variance in weight of no more than 3.5 percent (a 65 percent difference between the two standards). Finally, with regard to length, the minimum allowable length of ASTM A–53 standard pipe is 12 feet, while the minimum permissible length under API 5L specifications is 9 feet.

All the respondents agree that physical characteristics constitute a very important factor in this analysis. The Korean producers conclude that "[p]hysical characteristics * * * are the bedrock on which the Department—and petitioners—originally excluded line and dual-stencil pipe from the scope of the investigation."

Petitioners argue that pipe made to either the API 5L line pipe specifications or the dual-certified specifications meets the physical characteristic requirements set forth in the scope of the orders. Petitioners argue that respondents are misdirected in emphasizing the differences between pipe meeting API specifications and ASTM specifications with regard to chemical composition, end finish and weight and thickness tolerances. First, the physical description of standard pipe set forth in the scope language of the orders cover standard pipe that "generally" (not exclusively) meets the ASTM A–53 specifications. Thus, the physical description is not limited to A–53 standard pipe. Second, the scope language expressly includes pipe

meeting the physical description expressed therein, regardless of wall thickness, surface finish and end finish. Therefore, according to petitioners, the differences in these characteristics are irrelevant to the scope inquiry. Because dual-certified pipe meets both the A–53 specifications and the API 5L specifications, petitioners assert, it meets the physical description of the pipe described in the scope of the orders. Further, pipe which meets the API 5L specifications also meets the physical description of the pipe described in the scope because the higher specifications of API 5L encompass the A–53 specifications.

The Department determines that line pipe and dual-certified pipe (within the physical parameters outlined in the scope of the orders), when used in standard pipe applications, have the same primary physical characteristics as standard pipe. As stressed above, we are only concerned with clarifying whether line and dual-certified pipe which is actually used in standard pipe applications and fall within the physical parameters outlined in the scope of the orders is within the scope of the orders on standard pipe. Nevertheless, as the scope of the orders indicates and as the Department discussed in its recommendation memorandum, it is important to note that the overlap between the physical characteristics of line and dual-certified pipe and standard pipe exists both for line and dual-certified pipe which is actually used as standard pipe and for other line and dual-certified pipe as well. The physical description of standard pipe contained in the orders read, in part, as follows:

> The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications.

Clearly, virtually all line and dual-certified pipe possess these physical characteristics. To the extent a particular shipment or piece of line pipe does not possess different characteristics which would impede its use in a standard pipe application (a condition which does not apply to most line pipe), these physical characteristics would enable any line or dual-certified pipe to be used in a standard pipe application.

Having said the above, respondents are correct that chemical composition, end finish and couplings and weight and dimensional tolerances can be somewhat different between ASTM A–53 specifications and API 5L specifications. However, the significance of these observations is undermined by the above-noted overlap in primary physical characteristics among the various types of pipe and by specific language in the orders relating to these characteristics.

Regarding the latter point, the scope of the orders covers standard pipe regardless of wall thickness, surface finish or end finish. Thus, unique tolerances with respect to these characteristics cannot affect our determination of whether a product is standard pipe (as that term is understood in the orders). Moreover, even with respect to acknowledged physical characteristics of standard pipe, uniquely stringent tolerances that exceed ASTM A–53 specifications should not prevent a product which is being used in standard pipe applications from being considered standard pipe, provided that the product meets all of the standard pipe specifications as expressed in the orders.

Therefore, the Department preliminarily determines that line pipe and dual-certified pipe which fall within the physical parameters outlined in the scope of the orders, when used in standard pipe applications, have the same primary physical characteristics as standard pipe; such pipe generally meets the physical description listed in the scope of the orders, a fact which supports inclusion within the class or kind of merchandise for standard pipe.

Expectations of the Ultimate Purchasers: The Korean producers argue that line pipe and dual-stenciled pipe are manufactured to more exacting standards than standard pipe. The API specifications governing the chemistry, weight, outside diameter, marking and so forth of line pipe were established by the American Petroleum Institute for the peculiar needs of the oil, gas, pipeline and utility industries. Thus, purchasers of these line pipe products expect such products to be fit for use in these industries. Dual-stenciled API 5L/ASTM A–53 pipe is manufactured to conform to the more stringent API specifications, which automatically qualify it for the lower ASTM specifications applicable to standard pipe. Thus, purchasers of dual-stenciled pipe expect it to meet the API standards but also to have added flexibility because it is additionally marked with the ASTM certification. Finally, the Korean producers assert that imported dual-certified pipe is not being sold exclusively or predominantly to customers for standard pipe uses.

HYLSA argues that the differing expectations of ultimate purchasers of dual-stenciled API–5L line pipe, as compared with ASTM A–53 standard pipe, may be inferred, in part, from (a) the fact that some users only use dual-stenciled pipe, and (b) the physical differences between the two products. Pipe is produced to meet API–5L specifications at home and abroad because there is a market demand for the *physical* characteristics of API–5L line pipe. Unless there were distinct expectations on the part of the ultimate purchasers with regard to dual-stanciled line pipe, manufacturers would just produce the less costly ASTM A–53 standard pipe.

Petitioners state that the ultimate purchasers of dual-certified pipe and API–5L line pipe have a critical expectation when they purchase such pipe from one of the countries involved in this scope proceeding. That critical expectation is that they are purchasing a pipe that will perform a standard pipe application at the lowest cost. More specifically, the purchasers of dual-certified pipe and API–5L line pipe simply want a product that meets the A–53 specification for use in a standard pipe application. Therefore, petitioners assert that the line pipe and dual-certified products being sold to standard pipe customers are intended for, and in fact are now being used for, the same standard pipe applications that were previously met by A–53 pipe.

The Department recognizes that the ultimate purchaser of line or dual-certified pipe receives a product that is certified to perform a more demanding application, *i.e.*, a line pipe application. At the same time, some purchasers of line and dual-certified pipe expect to use it and actually do use it in a standard pipe application. (Neither the Korean respondents nor HYLSA attempt to contravene petitioners' evidence that imported dual-certified pipe and imported line pipe are being sold to customers for standard pipe uses.) Bearing in mind that this scope inquiry is only concerned with purchasers who actually use line pipe or dual-certified pipe in a standard pipe application and which fall within the physical parameters outlined in the scope of the orders, we find that the expectations of these purchasers with respect to such purchases are that the higher specification product will be put to the same use as standard pipe which is manufactured to the lower ASTM specifications. This type of purchase can occur when prices in the pipe

market permit the substitution, in standard pipe applications, of line pipe or dual-certified pipe for standard pipe.

Our focus here is not on the consumer expectations the manufacturer anticipates at the time of production, but rather on the actual expectations of the ultimate purchaser of the merchandise at issue here, *i.e.*, line pipe and dual-certified pipe when actually used in a standard pipe application. *Cf. IPSCO*, 715 F. Supp. at 1108. Thus, HYLSA's analysis of why a producer would produce to the more demanding specifications is irrelevant. Similarly, the Korean producers' assumption that the purchaser is using the pipe in a line pipe application makes their argument inapposite. Finally, we do not need to address here the Korean producers' assertion that imported dual-certified pipe is not being sold exclusively or predominantly to customers for standard pipe uses. It is sufficient to note that the parties do not dispute that some such sales are occurring.

Ultimate Use of the Product: Respondents' main argument regarding ultimate use is that the Department's analysis should be "directed at the product generally, not at the disposition or end use of any particular entries." As support, the Korean respondents cite the Department's Final Determination of Sales at Less Than Fair Value: Uranium from the Ukraine and Tajikistan. 58 FR 36,640, 36,644 (1994), which states:

> Every product has alternative uses or the potential for alternative uses. For purposes of a class or kind analysis, it is the Department's responsibility to determine not the number of alternative uses but rather the significance of any or all of those alternatives.

According to the Korean respondents, the primary or "significant" use of line and dual-certified pipe has always been and is now in the oil, gas and utility industries, *i.e.*, it is a line pipe use. The Korean respondents argue that it is this use, as under Customs law, that determines the products' proper class or kind, not the specific uses of an isolated minority of entries.

Respondents also contest petitioners' claims that all or most line pipe or dual-stenciled pipe is being used for standard pipe applications. HYLSA adds that petitioners' argument is premised fundamentally on the unsubstantiated claim that dual-certified pipe is only used as standard pipe. HYLSA acknowledges that by virtue of its physical characteristics, dual-certified pipe is suitable for and may be used in standard pipe applications. However, that possibility does not alter the fact that it is still line pipe.

Petitioners assert that the petition provides a description of the uses of standard pipe that is consistent with the one published in the antidumping duty orders. Although no specific exclusions were listed in the petition, petitioners argue that the scope includes and excludes specific "classes or kinds" of pipes based on end use, and therefore end use is the determining factor of the scope. According to petitioners, the term "standard pipe," as used, covers a group of piper products used for a particular group of purposes. The orders include pipe used for other purposes such as line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Petitioners assert that each of these categories of pipe describes a particular use of pipe that is different from a standard pipe application. Therefore, they assert that pipe used in one of the excluded uses, such as in a line pipe application, is not covered. However, pipe that is capable of being used for line pipe, but which is actually used as standard pipe, is specifically covered by the orders. This includes dual-certified pipe and API 5L pipe.

The Department preliminarily determines that when dual-certified and line pipe are actually used in standard pipe applications and fall within the physical parameters outlined in the scope of the orders, the ultimate use of these products is the same as that of standard pipe. This Diversified Products criterion therefore supports inclusion of such products in the scope of the orders on standard pipe.

We agree with respondents that it is important to isolate the primary or most significant use of a product in determining whether its ultimate use is the same or similar to that of the subject merchandise. However, we are not here attempting to determine the ultimate use of all line pipe and dual-certified pipe. We are only concerned with line and dual-certified pipe which fall within the physical parameters outlined in the scope of the orders and is actually used in a standard pipe application. Thus, in order to properly analyze the ultimate use of line and dual-certified pipe when used in a standard pipe application, we must compare that use to the ultimate use of standard pipe.

As identified in the scope, standard pipe is "intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, and other related uses," as well as certain structural and mechanical uses. These uses are essentially the same as those for the products at issue, *i.e.*, for line pipe and dual-certified pipe which is actually used in standard pipe applications. Thus, when properly viewed, respondents' line of argument does not point toward a determination that line and dual-certified pipe, when actually used as standard pipe, represent a different class or kind of merchandise than standard pipe. See, *e.g., Smith Corona Corp.* versus *United States*, 915 F.2d 683, 687 (Fed. Cir. 1990); *Final Scope Ruling; Portable Electric Typewriters From Japan*, 55 FR 47,358 (1990), *aff'd, Matsushita Elec. Indus. Co.* versus *United States*, 787 F. Supp. 1461 (CIT 1992).

Moreover, the fact that line pipe and dual-certified pipe—When actually used as standard pipe—otherwise could have been used to perform the more demanding line pipe applications is irrelevant. The primary use—indeed the only use—of the products at issue is in standard pipe applications.

Channels of Trade: Respondents concede that the channels of trade overlap in distributors for standard pipe, dual-certified pipe and API 5L line pipe. However, they argue that this fact alone does not support a determination that line pipe, dual-certified pipe and standard pipe are a single class or kind of merchandise within the scope of the orders covering standard pipe.

Petitioners assert that the channels of trade for standard pipe, API 5L line pipe and dual-certified pipe have traditionally been similar, though not identical.

The Department agrees that the channels of trade overlap for standard pipe, dual-certified pipe and line pipe. The Department also acknowledges in response to respondents' argument that this criterion alone is not dispositive as to whether API 5L line pipe and dual-certified pipe fall within the scope of the orders at issue.

Conclusion

Based upon our analysis of the comments provided by all of the interested parties on the physical characteristics, expectations of the ultimate purchasers, ultimate use of the product, and the channels of trade, in accordance with 19 CFR 353.29(i), we preliminary determine that when API 5L pipe and dual-certified pipe are used in a standard pipe application and fall within the physical parameters outlined in the scope of the orders, they are the same class or kind of merchandise as standard pipe and are therefore included within the scope of the orders on circular welded non-alloy steel pipe from Mexico, Korea, Brazil, and Venezuela (case numbers A–201–805, A–580–809, A–351–809 and A–307–805).

We invite interested parties to comment on this preliminary determination, and to address the end-use certification process within 30 days of publication of this preliminary determination. Rebuttal comments are due within 37 days of publication of this preliminary determination. See 19 CFR 353.29(d)(3). The Department will consider such comments in reaching its final determination.

This preliminary scope ruling is in accordance with 19 CFR 353.29(d)(3).

Dated: January 6, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–889 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-M

[C–357–048]

Certain Textiles and Textile Products From Argentina; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of Revocation of Countervailing Duty Order.

SUMMARY: The Department of Commerce is revoking the countervailing duty order on certain textiles and textile products from Argentina because it is no longer of interest to interested parties.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Alexander Braier or Rick Herring, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 61069) its intent to revoke the countervailing duty order on certain textiles and textile products from Argentina (43 FR 53421; November 16, 1978). Additionally, as required by 19 CFR 355.25(d)(4)(ii), the Department served, by certified mail, written notice of its intent to revoke this countervailing duty order on each party listed on its most current service list.

Scope of the Order

Imports covered by this order are shipments of men's and boys' woolen apparel from Argentina. Such apparel is currently classified under the items of the Harmonized Tariff Schedule (HTS) listed in the appendix to this notice.

Determination to Revoke

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that the order is no longer of interest to interested parties. We conclude that there is no interest in a countervailing duty order when no interested party has requested an administrative review for at least five consecutive review periods and when no domestic interested party objects to the revocation (19 CFR 355.25(d)(4)(iii)).

We received neither objections to our notice of intent to revoke the countervailing duty order, nor requests for an administrative review. Therefore, we have concluded that the countervailing duty order covering certain textiles and textile products from Argentina is no longer of interest to interested parties, and we are revoking this countervailing duty order in accordance with 19 CFR 355.25(d)(4)(iii).

Further, as required by 19 CFR 355.25(d)(5), the Department is terminating the suspension of liquidation on the subject merchandise as of the effective date of this notice, and will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported from Argentina on or after January 1, 1992.

This notice is published in accordance with 19 CFR 355.25(d)(4)(iii).

Dated: January 4, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix—Men's and Boys' Woolen Apparel

6101.10.00
6101.30.15
6103.11.00
6103.12.10
6103.19.10
6103.21.00
6103.31.00
6103.41.10
6103.41.20
6103.43.10
6103.49.10
6105.20.10
6105.90.10
6107.19.00
6107.29.20
6107.99.20
6109.90.15
6110.10.10
6110.10.20
6110.30.15
6112.19.20
6114.10.00
6117.10.10
6117.10.30
6117.20.00
6117.90.00
6201.11.00
6201.13.10
6201.13.30
6201.91.10
6201.91.20
6201.93.25
6203.11.10
6203.11.20
6203.12.10
6203.19.20
6203.21.00
6203.23.00
6203.31.00
6203.33.10
6203.39.10
6203.41.10
6203.41.20
6203.43.30
6205.10.10
6205.10.20
6205.30.15
6207.99.20
6207.99.40
6208.19.40
6208.99.20
6209.10.00
6211.31.00
6212.90.00
6214.20.00
6215.90.00
6217.90.00

[FR Doc. 94–892 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-DS-P

National Oceanic and Atmospheric Administration

[I.D. 121393C]

1992 Survey of Atlantic Striped Bass Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Summary and notice of availability of survey results.

SUMMARY: NMFS summarizes and announces the availability of the results of a survey of Atlantic coast striped bass fisheries for 1992, as required by the Atlantic Striped Bass Conservation Act (the Act), to provide information on the status of the fisheries.

ADDRESSES: Copies of the survey results are available from David G. Deuel, NOAA/NMFS/FCM3, 1335 East-West Highway, Silver Spring, MD 20910, (301) 713–2347.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, (301) 713–2347.

SUPPLEMENTARY INFORMATION: The Act requires the Secretary of Commerce and

the Secretary of the Interior to conduct a comprehensive annual survey of the Atlantic striped bass fisheries. The following is a summary of the survey for 1992. Management measures restricting the harvest of striped bass by commercial and recreational fisheries remained in place during 1992, as the stocks continue to rebuild. The 1992 commercial harvest of striped bass was 1,692,000 pounds (523.9 mt), an increase of 537,000 pounds (243.6 mt) above the landings of 1,155,000 pounds (523.9 mt) in 1991. The Chesapeake Bay area (Maryland, Virginia and the Potomac River) accounted for 67 percent of the 1992 commercial landings. The recreational catch in 1992 was an estimated 4,282,000 fish, of which 416,000 were harvested; the remaining 3,866,000 were released alive. The estimated weight of the recreational harvest was 4,902,000 pounds (2,223.5 mt), about three times that of the commercial harvest. Juvenile production in 1992 was below the long-term averages for Maryland, North Carolina, and New York; and about average for Virginia and Delaware. Information from sampling the population of striped bass shows an increased relative abundance of striped bass from recent year classes. Copies of the survey are available upon request (see **ADDRESSES**).

Dated: January 5, 1994.

David S. Crestin,

Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–824 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-22-P

Patent and Trademark Office

Economics and Statistics Administration

Technology Administration

Cancellation of Public Hearings on Economic Aspects of the U.S. Patent System

AGENCIES: Patent and Trademark Office; Economics and Statistics Administration; Technology Administration; Department of Commerce.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The Patent and Trademark Office (PTO), Economics and Statistics Administration (ESA) and Technology Administration (TA) announce the cancellation of a public hearing scheduled for January 25, 1994, at the San Jose Convention Center, on certain economic aspects of the United States patent system. The hearing has been canceled due to the lack of interest of parties in presenting oral testimony. Parties interested in commenting on the topics addressed in the **Federal Register** notice announcing the hearing (58 FR 68394), dated December 27, 1993, may provide those comments in written form pursuant to the guidelines indicated in that notice.

DATES: Written comments on topics presented in the supplementary information section of the **Federal Register** notice announcing the hearing (58 FR 68394), dated December 27, 1993, should be received by the PTO on or before March 1, 1994. The public hearing scheduled for January 25, 1994, in San Jose, California, is canceled.

ADDRESSES: Those interested in presenting written comments should consult the **Federal Register** notice announcing the hearing (58 FR 68394) for information regarding such comments.

FOR FURTHER INFORMATION CONTACT: Jeff Kushan by telephone at (703) 305–9300, by fax at (703) 305–8885, by electronic mail at kushan @uspto.gov, or by mail marked to his attention addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

Dated: January 6, 1994.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 94–857 Filed 1–12–94; 8:45 am]

BILLING CODE 3510-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Mauritius

January 7, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 14, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding (MOU) dated October 22, 1993 between the Governments of the United States and Mauritius establishes, among other things, limits for certain textile products, produced or manufactured in Mauritius and exported during the period beginning on January 1, 1994 and extending through December 31, 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 7, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Memorandum of Understanding (MOU) dated October 22, 1993 between the Governments of the United States and Mauritius; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 14, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Mauritius and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit[1]
Knit group 345, 438, 445, 446, 645 and 646, as a group.	133,585 dozen.

Category	Twelve-month restraint limit [1]
Levels not in a group	
237	172,265 dozen.
335/835	68,476 dozen.
336	80,580 dozen.
338/339	322,595 dozen.
340/640	525,000 dozen of which not more than 319,580 dozen shall be in Categories 340–Y/640–Y [2].
341/641	363,679 dozen.
347/348	679,048 dozen.
351/651	159,703 dozen.
352/652	1,354,284 dozen of which not more than 1,151,142 dozen shall be in Category 352.
442	11,368 dozen.
604–A [3]	326,858 kilograms.
638/639	370,985 dozen.
647/648/847	500,250 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[3] Category 604–A: only HTS number 5509.32.0000.

Imports charged to these category limits for the period October 1, 1992 through December 31, 1993 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the MOU dated October 22, 1993 between the Governments of the United States and Mauritius.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–884 Filed 1–12–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: February 10, 1994, 9 a.m.–5 p.m. and February 11, 1994, 9 a.m.–Noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326 Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, room 400J, Washington, DC 20208–7575, telephone: (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Overview of NCES Data Collection Program.
- Ethics Training for New Council Members.
- Proposals for future ACES activities.
- Council Business.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., room 400J, Washington, DC 20208–7575.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 94–856 Filed 1–12–94; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for the Proposed Central Neutralization Facility Pipeline Extension at the K–25 Site, Oak Ridge, TN

AGENCY: Department of Energy.

ACTION: Floodplain statement of findings.

SUMMARY: This is a Floodplain Statement of Findings for the Central Neutralization Facility (CNF) Pipeline Extension to the Clinch River, prepared in accordance with 10 CFR part 1022. DOE proposes to extend the CNF pipeline from the K–801 facility (National Pollutant Discharge Elimination System (NPDES) Outfall 011), to the Clinch River (new permitted NPDES Outfall 014) in floodplains located in Roane County, Tennessee. DOE prepared a floodplain assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplains. DOE will allow 15 days of public review after publication of the Statement of Findings before implementing the proposed action.

FOR FURTHER INFORMATION CONTACT: Information on the proposed action (including maps of potentially disturbed floodplain areas) is available from: Mr. Larry Radcliffe, Director Waste Management and Technology Development Division, Oak Ridge Operations Office, U.S. Department of Energy, Post Office Box 2001, Oak Ridge, Tennessee 37831–8541, (615) 576–9212, or fax comments to (615) 576–5333. For further information on general DOE floodplain/wetland environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a Floodplain Statement of Findings for the CNF Pipeline Extension to the Clinch River, prepared in accordance with 10 CFR part 1022. A Notice of Floodplain Involvement was published in the **Federal Register** on June 11, 1993, 58 FR 32658, and a Floodplain Assessment was prepared. DOE is proposing to extend the CNF pipeline from the K–801 facility (NPDES Outfall 011) to the Clinch River (new permitted NPDES Outfall 014). The route would begin at the K–801 facility on Poplar Creek and the pipeline would be laid in Poplar Creek to the Clinch River. The proposed route lies in the Poplar Creek and Clinch River floodplains. The

action is proposed to be located in the floodplains because (1) it would involve a State of Tennessee mandated discharge into the Clinch River which requires crossing the Clinch River and Poplar Creek floodplains for access to the Clinch River; (2) there would be no hydrologic impacts as determined by the floodplain assessment; and (3) there would be no increased risks to individuals, property, or the environment during or following the construction of the proposed pipeline extension. Alternatives to the proposed action considered included (1) no action, (2) further treatment of the effluent, (3) transportation of the effluent to the Clinch River, (4) provision of supplemental dilution flow, (5) extension of the underground pipeline, and (6) use of an existing underground carbon steel pipe. The proposed action would conform to applicable floodplain protection standards. The proposed action would not alter the existing normal channel cross section or storage capacity of Poplar Creek and Clinch River. The assessment reveals no change in the water elevations and no effect on the storage capacities of either or both floodplains. Construction in the floodplains would take only a few days and would be scheduled during the dry season to minimize potential harm to or within the floodplain. DOE will allow 15 days of public review after publication of the Statement of Findings prior to implementing the proposed action.

Lawrence H. Harmon,

Acting Director, Office of Waste Operations, Office of Waste Management, Environmental Restoration, and Waste Management.

[FR Doc. 94–866 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

Floodplain Statement of Findings for the Proposed K–1515 Sanitary Water Treatment Plant Improvements at the K–25 Site, Oak Ridge, TN

AGENCY: Department of Energy.

ACTION: Floodplain Statement of Findings.

SUMMARY: This is a Floodplain Statement of Findings for the proposed activities at the K–1515 area of the Oak Ridge K–25 Site, prepared in accordance with 10 CFR part 1022. DOE proposes to replace the K–1515–C Lagoon with the construction of a new 1.1 million gallon lagoon (K–1515–F) and discharge pipeline to the Clinch River. The proposed actions would take place in a floodplain located in Roane County, Tennessee.

DOE prepared a Floodplain Assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. DOE will allow 15 days of public review after publication of the Statement of Findings before implementing the proposed action.

FOR FURTHER INFORMATION, CONTACT: Information on the proposed action (including maps of potentially disturbed floodplain areas) is available from: Ms. Nancy Hendrix-Ward, NEPA Program Manager, Environmental Restoration Division, Oak Ridge Operations Office, U.S. Department of Energy, Post Office Box 2001, Oak Ridge, Tennessee 37831–8541, (615) 576–4642, or fax comments to (615) 576–6074. For further information on general DOE floodplain/wetland environmental review requirements, contact: Ms. Carol Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a Floodplain Statement of Findings for the proposed activities at the K–1515 area of the Oak Ridge K–25 Site, prepared in accordance with 10 CFR part 1022. A Notice of Floodplain Involvement was published in the **Federal Register** on May 20, 1993, 58 FR 29401. The proposed action would be an improvement to waste water treatment by directly replacing the K–1515–C Lagoon, which functions as a settling basin for effluent from the K–1515 Sanitary Water Treatment Plant at the Oak Ridge K–25 Site, and providing a direct discharge to the Clinch River. The purpose of this action would be to eliminate the use of the K–1515–C Lagoon as a settling basin because the lagoon has been declared "waters of the State."

The project would involve construction and operation of a 1.1 million gallon lagoon (K–1515–F), relocation of the discharge point by installing a discharge pipeline to the Clinch River; installation of a recycle line to the raw water tank; and installation of associated piping, pumps, instrumentation, wiring, and electrical controls. To meet effluent criteria, the discharge must be directed to the Clinch River since the water flow of the existing K–1515–C lagoon is insufficient. Approximately 110 linear feet of the discharge pipeline would be buried in the floodplain of the Clinch River. Temporary disturbances would occur in the floodplain during excavation of a trench and burial of the pipeline. The temporary disturbance would last approximately 2–3 weeks. After installation of the pipeline, the trench would be filled and the topography returned to the contours and elevations that existed prior to installing the pipeline. There would be no permanent impacts to the floodplain because the pipeline would be buried and would not change the topography or vegetation (currently a grassy mixture without trees) of the ground surface in the floodplain. Other alternatives, such as no action, installation of a pipeline from the City of Oak Ridge Treatment Plant, construction of a new treatment facility adjacent to K–1515, and rerouting the "blue-line" stream around the K–1515–C Lagoon were considered and evaluated in making this determination. A floodplain assessment was performed to assess potential hydrological impacts of the proposed action. It addressed (1) the potential for alteration of the Clinch River floodplain after the proposed actions, (2) the increase in water surface elevations during flood events, and (3) the potential impacts on nearby properties and the environment. Results of the floodplain assessment indicate the proposed action would have inconsequential hydrologic impacts; therefore, no alternatives or mitigation measures to the proposed action were considered. The 100- and 500-year floodplains are below the elevation of the proposed site for the new lagoon. The discharge pipe extending to the Clinch River would be buried and would not have an impact on the floodplain. Therefore, the floodplain assessment shows that the proposed action would not have any significant environmental impact; would have no adverse impact on the floodplain; would not cause impacts such as backwater effects or inundation of land, property, or individuals; and would not promote development in the floodplain. DOE will allow 15 days of public review after publication of the Statement of Findings prior to implementing the proposed action.

Lawrence H. Harmon,

Acting Director, Office of Waste Operations, Office of Waste Management, Environmental Restoration and Waste Management.

[FR Doc. 94–867 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 93–150–NG]

CATEX Vitol Gas, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas, From and To Canada and Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting CATEX Vitol Gas, Inc. authorization to import and export up to a combined total of 150 Bcf of natural gas, including liquefied natural gas, from and to Canada and Mexico, over a two-year term beginning on the date of first import or export.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–869 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–147–NG]

DGS Trading Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting DGS Trading Inc. blanket authorization to import and export up to a combined total of 76 billion cubic feet (Bcf) of natural gas from and to Canada over a two-year term beginning on the date of the first import or export.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–870 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–130–LNG]

Distrigas Corporation; Order Granting Blanket Authorization To Import Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Distrigas Corporation authorization to import up to 100 Bcf of liquefied natural gas (LNG) from any foreign supplier of LNG, over a two-year term beginning on the date of first delivery.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 3, 1994.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–868 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–143–NG]

Enron Gas Marketing, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and To Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Enron Gas Marketing, Inc. authorization to import up to 400 Bcf and to export up to 400 Bcf of natural gas from and to Mexico over a two-year term, beginning on the date of first import or export delivery after December 31, 1993.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–871 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–144–NG]

Enron Gas Marketing, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Enron Gas Marketing, Inc. authorization to import up to 1 Tcf and to export up to 1 Tcf of natural gas from and to Canada over a two-year term, beginning on the date of first import or export delivery after December 31, 1993.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–872 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–146–NG]

Great West Energy Inc.; Order Granting Blanket Authorization To Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Great West Energy Inc. blanket authorization to export up to 30 Bcf of natural gas to Canada over a period of two years beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket room, room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–873 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–135–NG]

Mobil Natural Gas Inc.; Blanket Authorization To Import Natural Gas From Canada, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Mobil Natural Gas Inc. blanket authorization to import up to 200 Bcf of natural gas, including liquefied natural gas (LNG), from Canada over a two-year period beginning on the date of the first delivery after February 15, 1994.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–874 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–136–NG]

Mobil Natural Gas Co.; Order Granting Blanket Authorization To Import Natural Gas From Mexico, and To Import LNG From Any Foreign Country

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting blanket authorization to Mobil Natural Gas Co. to import natural gas from Mexico and to import liquefied natural gas (LNG) from any foreign country, over a period of two years beginning on the date of the first import of either natural gas or LNG after February 15, 1994. The volume of gas and LNG imported will not exceed an aggregate of 200 Bcf.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–875 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–125–NG]

TransTexas Gas Corporation; Order Granting Blanket Authorization To Import Natural Gas From Canada and To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting TransTexas Gas Corporation authorization to import up to 150 Bcf of natural gas from Canada and to import and export up to an aggregate of 150 Bcf of natural gas from and to Mexico. This authorization shall extend for a period of two years beginning on the date of the initial import or export delivery, whichever occurs first.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 5, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–876 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Cases Filed During the Week of December 10 Through December 17, 1993

During the Week of December 10 through December 17, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of December 10 through December 17, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 6, 1993 ...	M.S.A.D. 8, Vinahaven, Maine	RR272–123	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The November 26, 1993 Decision and Order (Case No. RF272–81367) issued to M.S.A.D. 8 would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
Dec 9, 1993	Universities Research Association, Inc., Dallas, Texas.	LWZ–0023	Motion to Dismiss. If granted: Complaint for Contractor Employee Protection under 10 CFR part 708 would be dismissed.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of December 10 through December 17, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 10, 1993 .	Rockford Grain Growers, Rockford, Washington.	LEE–0064	Exception to the Reporting Requirements. If granted: Rockford Grain Growers would not be required to file Form EIA–782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report."
Dec. 10, 1993 .	Star-Lite Propane Gas Corporation, North Bay Shore, New York.	LEE–0065	Exception to the Reporting Requirements. If granted: Star-Lite Propane Gas Corporation would not be required to file Form EIA–782B, "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Dec. 13, 1993 .	Marbob Energy Corporation, Artesia, New Mexico.	LEE–0066	Exception to the Reporting Requirements. If granted: Marbob Energy Corporation would not be required to file Form EIA–23, "Survey of Domestic Oil and Gas Reserves."
Dec. 13, 1993 .	Marlene Flor, Albuquerque, New Mexico	LFA–0343	Appeal of an Information Request Denial. If granted: The November 1, 1993, Freedom of Information Request Denial issued by the Albuquerque Field Office would be rescinded, and Marlene Flor would receive three pages faxed to Security Affairs, DOE Headquarters, on April 22, 1992, concerning Ms. Flor.
Dec. 13, 1993 .	Dicks Oil Company, Belle Fourche, South Dakota.	LEE–0067	Exception to the Reporting Requirements. If granted: Dicks Oil Company would not be required to file Form EIA–782B, "Resellers/Retailers Monthly Petroleum Product Sales Report."
Dec. 16, 1993 .	Lakeland School Corporation Lagrange, Indiana.	RR272–122	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The December 9, 1993 Dismissal Letter (Case No. RF272–81353) issued to Lakeland School Corporation would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.

Date received	Name of refund proceeding/name of refund application	Case number
12/10/93 thru 12/17/93	Crude Oil Refund, applications received	RF272–95084 thru RF272–95087
12/10/93 thru 12/17/93	Atlantic Richfield, applications received	RF304–15427 thru RF304–15439
12/10/93 thru 12/17/93	Texaco Oil Refund, applications received	RF321–19998 thru RF321–20001

[FR Doc. 94–865 Filed 1–12–94; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Cases Filed During the Week of November 5 Through November 12, 1993

During the week of November 5 through November 12, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 5 through Nov. 12, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 5, 1993	ARCO/Bassman, Mitchell & Alfano, Washington, DC.	RR304–65	Request for modification/rescission in the ARCO refund proceeding. If granted: The August 4, 1993 Decision and Order (Case No. RF304–14224) issued to Bassman, Mitchell and Alfano regarding the firm's Application for Refund submitted in the ARCO refund proceeding would be modified.
Do	Benton County, Kennewick, WA	LPA–0001	PETT Appeal (Payments-Equal-To-Taxes Appeal). If granted: The determination of DOE's Richland Office would be modified and Benton County, Washington, would receive $45,751,726 with interest from the Department of Energy for its Payments-Equal-To-Taxes.
Do	Energy Refunds, Inc., Hardin, KY, .	LFR–0013	Request for modification/rescission. If granted: The October 5, 1993 Decision and Order (Case No. LFR–0012) would be modified and alleged defects corrected.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Nov. 5 through Nov. 12, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Do	Angela M. Hagwood, Powell, TN	LFA–0333	Appeal of an information request denial. If granted: Angela M. Hagwood would receive a copy of correspondence concerning an investigation that was conducted through the Martin Marietta Energy Systems, Oak Ridge National Laboratory, Affirmative Action Office.
Nov. 8, 1993	Eugene Maples, Hopkins, SC	LFA–0335	Appeal of an information request denial. If granted: The October 18, 1993 Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and Eugene Maples would receive information withheld under Exemption 5 of the FOIA.
Do	Marlene Flor, Albuquerque, NM	LFA–0334	Appeal of an information request denial. If granted: The September 27, 1993 Freedom of Information Request Denial issued by the Office of Economic Impact and Diversity would be rescinded, and Marlene Flor would receive access to each speech presented by the Department of Energy's representatives at the National Federally Employed Women's Conference held in Las Vegas in July 1993.
Do	Town of Townsend, Townsend, MA.	RR272–121	Request for modification/rescission in the crude oil refund proceeding. If granted: The September 7, 1993 Dismissal Letter (Case No. RF272–88394) issued to Town of Townsend regarding the Town's Application for Refund submitted in the Crude Oil Refund Proceeding would be modified.
Nov. 9, 1993	Texaco/Inter City Texaco, Memphis, TN.	RR321–139	Request for modification/rescission in the Texaco refund proceeding. If granted: The December 10, 1992 Decision and Order (Case No. RF321–19481) issued to Inter City Texaco regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.
Do	Van Dyke Gas Company, Center Line, MI.	LEE–0058	Exception to the reporting requirements. If granted: Van Dyke Gas Company would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Produce Sales Report."
Do	Westinghouse Hanford Company, Richland, WA.	LFA–0336	Appeal of an information request Denial. If granted: The November 3, 1993 Freedom of Information Request Denial issued by the Richland Field Office would be rescinded, and Westinghouse Hanford Company would receive access to Internal Audit Reports.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund applicant	Case No.
11/5/93 thru 11/12/93	Crude oil refund Applications received	RF272–95011 thru RF272–95019.
11/5/93 thru 11/12/93	Texaco oil refund Applications received	RF321–19960 thru RF321–19969.
11/5/93 thru 11/12/93	Atlantic Richfield Refund Applications received	RF304–14739 thru RF304–14783.
11/9/93	Mays Gulf	RF300–21764.

[FR Doc. 94–864 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

Cases Filed During the Week of November 26 Through December 3, 1993

During the Week of November 26 through December 3, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 26 through Dec. 3, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 12, 1990	Gulf College Gulf Service, Cullowhee, North Carolina.	RR300–255	Request for modification/rescission in the Gulf refund proceeding. If granted: The November 28, 1988 Decision and Order (Case No. RF300–1764) issued to College Gulf Service would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Nov. 26 through Dec. 3, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 18, 1993	Beacon/Valley Oil Distributing Co., Salinas, California.	RR238–5	Request for modification/rescission in the Beacon refund proceeding. If granted: The July 16, 1991 Decision and Order (Case No. RF238–55) issued to Valley Oil Distributing Company would be modified regarding the firm's application for refund submitted in the Beacon refund proceeding.
Nov. 26, 1993	Arco/Major Oils, Rochester, New York	RR304–66	Request for modification/rescission in the Arco refund proceeding. If granted: The October 2, 1990 Decision and Order (Case No. RF304–3436) issued to Major Oils would be modified regarding the firm's application for refund submitted in the Arco refund proceeding.
Nov. 29, 1993	Armor Elevator Company, Inc., Elk Grove Village, Illinois.	LFA–0340	Appeal of an information request denial. If granted: The November 12, 1993 Freedom of Information Request Denial issued by the Batavia Area Office would be rescinded and Armor Elevator Company would receive access to detailed pricing sheets submitted in response to Fermilab National Accelerator Laboratory Proposal No. FESS/BS–1952–ARF.
Do	Bollmann Oil Inc., Mankato, Minnesota	LEE–0061	Exception to the reporting requirements. If granted: Bollmann Oil Inc. would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Dec. 1, 1993	Radio Oil Company, Inc., Worcester, Massachusetts.	LEE–0062	Exception to the reporting requirements. If granted: Radio Oil Company, Inc. would not be required to file Form EIA–782B. "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Dec. 3, 1993	Cynthia Ann Virostek, Apollo, Pennsylvania.	LFA–0342	Appeal of an information request denial. If granted: The November 4, 1993 Freedom of Information Request Denial issued by the Office of the Executive Secretariat would be rescinded, and Cynthia Ann Virostek would receive access to the listed enclosures in order to obtain a complete copy of the January 27, 1976 letter from Robert Seamans, Administrator, Energy Research and Development Administration, to William Anders, Chairman of the Nuclear Regulatory Commission.
Do	Government Accountability Project, Seattle Washington.	LFA–0341	Appeal of an information request denial. If granted: Government Accountability Project would receive a fee waiver for documents requested from the Richland Field Office pertaining to an alleged "whistleblower."

REFUND APPLICATIONS RECEIVED

[Week of Nov. 26 through Dec. 3, 1993]

Date received	Name of refund proceeding/name of refund applicant	Case No.
11/24/93	Hi-Jo Hydrocarbons, Inc	RF315–10281.
12/3/93	Andrew Louthern	RC272–221.
12/3/93	Schneider L.P. Gas	RF340–194.
12/1/93	Knop Butane Company	RF340–193.
12/1/93	Browing-Ferris Ind. of K.C	RC272–218.
12/1/93	Browing-Ferris Ind. of TN	RC272–219.
12/1/93	Continental Cheese Company	RC272–220.
12/1/93	Jamison Oil Company	RF315–10282.
11/26/93 thru 12/3/93	Crude oil refund applications received	RF272–95047 thru RF272–95069.
11/26/93 thru 12/3/93	Atlantic Richfield applications received	RF304–14999 thru RF304–15059.
11/26/93 thru 12/3/93	Texaco Oil refund applications received	RF321–19977 thru RF321–19989.

[FR Doc. 94–862 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Proposed Decision and Order During the Week of November 15 Through November 19, 1993

During the week of November 15 through November 19, 1993, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final

form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: January 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Rand Oil Co., Groesbeck, TX, LEE–0053

Rand Oil Co. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Reseller/Retailer's Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was experiencing a serious hardship due to the medical problems of its owner, C.R. Rand. Accordingly, on November 18, 1993, the DOE issued a Proposed Decision and Order determining that the exception request should be granted in part.

[FR Doc. 94–863 Filed 1–12–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. TM94–4–48–000]

ANR Pipeline Company; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on January 3, 1994, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets as listed in Appendix A to the filing, with a proposed effective date of February 1, 1994.

ANR states that the referenced tariff sheets are being submitted as part of ANR's Fifth Annual Reconciliation of buyout buydown costs being recovered by means of Volumetric Buyout Buydown Surcharges and Fixed Monthly Charges contained in Docket Nos. RP91–33, et al., RP91–192, RP92–4, RP92–199, RP93–29 and RP93–149.

ANR states that a copy of this filing, or such applicable parts, has been mailed to all of its Volume No. 1 customers and interested State Commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–816 Filed 1–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–142–000]

CRSS Power Marketing, Inc.; Issuance of Order

January 7, 1994.

On November 10, 1993, CRSS Power Marketing, Inc. (CRSS Power) submitted for filing a rate schedule under which CRSS Power will engage in wholesale electric power and energy transactions as a marketer. CRSS Power also requested waiver of various Commission regulations. In particular, CRSS Power also requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by CRSS Power.

On December 30, 1993, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under 18 CFR Part 34, subject to the following:

Within thirty days of the date of this order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CRSS Power should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, CRSS Power is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public or private interests will be adversely affected by continued approval of CRSS Power's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 31, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–815 Filed 1–12–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP93–4–000]

Mississippi River Transmission Corp.; Informal Settlement Conference

January 7, 1994.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, January 24, 1993, at 1 p.m., and continuing at 10 a.m. on Tuesday, January 25, 1994, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–817 Filed 1–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–189–000]

Texas Gas Transmission Corp.; Technical Conference

January 7, 1994.

In the Commission's order issued on October 1, 1993, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Thursday, January 13, 1994, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–818 Filed 1–12–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4826–1]

Effluent Guidelines Task Force Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will hold a meeting to discuss improvements to the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, February 8, from 8:30 a.m. to 5 p.m. and Wednesday, February 9, 1994, from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will take place at the Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, Effluent Guidelines Task Force Staff Director, Office of Water (4303), 401 M Street, SW., Washington, DC 20460; telephone 202–260–7150, fax 202–260–7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to Title III of the Clean Water Act (33 U.S.C. 1251 et seq.). The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices. The Task Force was created to offer advice to the Administrator on the long-term strategy for the effluent guidelines program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines.

The meeting agenda will include a discussion on draft recommendations regarding pollution prevention in effluent guidelines. There will also be Task Force work group discussions and reports from the groups on methodology for conducting preliminary industry studies, and improving the project management and data collection processes for effluent guidelines. The Task Force generally does not discuss specific effluent guideline regulations currently under development.

The meeting will be open to the public. Limited seating for the public is available on a first-come, first-served basis. The public may submit written comments to the Task Force regarding improvements to the Effluent Guidelines program. Comments should be sent to Eric Strassler at the above address. Comments submitted by February 1 will be considered by the Task Force at or subsequent to the meeting.

Dated: January 7, 1994.

Shelley Allen-Moorefield,

Acting NACEPT Designated Federal Official.

[FR Doc. 94–859 Filed 1–12–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4827–1]

Science Advisory Board; Emergency Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, emergency notice is hereby given that two committees of the Science Advisory Board (SAB) will hold public teleconference meetings on the dates and times described below. All times given are Eastern Time. All meetings are open to the public. For further information concerning each meeting, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB staff. One of the meetings listed below refers to the SAB's Environmental Futures Project, which was described in 58 FR 48063, dated September 14, 1993.

Research Strategies Advisory Committee

The Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) will meet by conference call from 4–5:30 pm on January 19, 1994. The Committee will offer comments on the design of an EPA Laboratory Study. The EPA program contact for this study is Mr. Tom Hadd, (202) 260–7500, Office of Research Program Management, 401 M Street, SW., Washington, DC 20460.

For additional information concerning this teleconference, please contact Mrs. Dorothy Clark, Staff Secretary, Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Phone: (202) 260–6552; Fax: (202) 260–7118. Anyone wishing to submit written public comment for the teleconference should provide thirty-five copies to Mrs. Clark no later than 12 noon on Friday, January 14, 1994. Individuals wishing to participate in the meeting as audience or commenters should call the Designated Federal Official (DFO) for the RSAC, Dr. Edward Bender at (202) 260–2562 as soon as possible as the number of available conference lines is limited.

Radiation Advisory Committee

The *Radiation Environmental Futures Subcommittee (REFS) of the Radiation Advisory Committee (RAC)* of the Science Advisory Board (SAB) will conduct a teleconference on January 21, 1994 from 11:00 am to 1:00 pm to discuss the topic of Radiation Environmental Futures and the status of its deliberative draft materials, which are currently under preparation and are not yet available to the public. The REFS met previously on December 3 & 4, 1993 (See 58 FR 61689, dated November 22, 1993).

For additional information concerning this teleconference, please contact Mrs. Diana Pozun, Staff Secretary, Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Phone: (202) 260–6552; Fax: (202) 260–7118. Anyone wishing to submit written public comment for the teleconference should provide thirty-five copies to Mrs. Pozun no later than 12 noon on Friday, January 14, 1994. Individuals wishing to participate in the meeting as audience or commenters should call Mrs. Pozun no later than 2 pm on January 20, 1994,

as the number of available conference lines is limited.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting or forwarded to them following the meeting or teleconference. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: January 6, 1994.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 94–996 Filed 1–12–94; 8:45 am]

BILLING CODE [illegible]

[FRL–4826–2]

Washington: Partial Program Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on partial program application of Washington for partial program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

Washington applied for a partial determination of adequacy under section 4005 of RCRA. EPA reviewed Washington's application and made a tentative determination of adequacy for those portions of the Washington's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. These portions are described later in this notice. The State/Tribe plans to revise the remainder of its permit program to assure complete compliance with the revised MSWLF Criteria and gain full program approval. Washington's application for partial program adequacy determination is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing on the date given in the "DATES" section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the "CONTACTS" section below.

DATES: All comments on Washington's application for a partial determination of adequacy must be received by the close of business on March 1, 1994. If a public hearing is held, it will be scheduled for March 1, 1994. Washington will participate in the public hearing held by EPA on this subject.

ADDRESSES: Written comments should be sent to Steven Sharp, USEPA, M/S HW–107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–6517.

Copies of Washington's application for partial adequacy determination are available 8:30 a.m. to 4:30 p.m. during normal working days at the following addresses for inspection and copying: Washington State Department of Ecology, 300 Desmond Drive, Lacey, Washington, Attn: Mr. Randy Martin (206) 407–6136; USEPA Region X Library, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1289.

FOR FURTHER INFORMATION CONTACT: Steve Sharp, USEPA, M/S HW–107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–6517.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal

permit program are a clearly identifiable and separable subset of part 258 These requirements if promulgated, will address the potential problems posed by the dual State/Tribal and Federal programs that came into effect in October 1993 in those States/Tribes that only have partial approvals of their MSWLF programs. On that date, Federal rules covering any portion of a State/Tribe's program that has not received EPA approval became enforceable. Owners and operators of MSWLFs subject to such dual programs must be able to understand which requirements apply and comply with them. In addition, the pieces of the Federal program that are in effect must mesh well enough with the approved portions of the State/Tribal program to leave no significant gaps in regulatory control of MSWLF's. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

As provided in the October 9, 1991 municipal landfill rule, EPA's national subtitle D standards took effect on October 9, 1993. Consequently, any remaining portions of the Federal Criteria that are not included in an approved State/Tribal program apply directly to the owner/operator without any approved State/Tribal flexibility. On October 1, 1993, the October 9, 1993 effective date was extended for certain smaller landfills and for certain landfills receiving waste from flood disaster areas (58 FR 51536). The effective date is now April 9, 1994, for MSWLFs that accept less than 100 tons of waste per day, are not a Superfund National Priority List site, and are either in a State that has submitted an application before October 9, 1993 for EPA approval, or are located on Tribal lands. The effective date has been extended to October 9, 1995, for very small landfills (less than 20 tons of waste per day) in arid climates that lack a practicable alternative for waste disposal or very small landfills that experience significant disruption of surface transportation. Certain large facilities receiving waste from flood disaster areas also are allowed an extension of the compliance date if the State determines that they are needed to dispose of flood debris.

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "Adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submission of a schedule mandatory in STIR.

B. Washington

On April 9, 1993, Washington submitted an application for partial program adequacy determination. This initial application was found to be incomplete by EPA as it referred to draft regulations. On October 15, 1993, Washington submitted a revised application for partial program adequacy determination. EPA has reviewed Washington's application and tentatively determined that all parts, with the exceptions listed below, of Washington's MSWLF permit program will ensure compliance with the Federal revised Criteria. Portions not ensuring compliance with Federal Criteria:

1. Definitions of "Existing MSWLF unit" and "Lateral expansion" (40 CFR 258.2).

2. Washington's design criteria for nonarid landfills (40 CFR 258.40(a)(2). Washington's program is not enforceable on indian lands.

EPA is not approving Washington's design standards for nonarid landfills due to the inclusion within this standard of an "equivalent" liner design. While Washington has developed a composite design that ensures compliance with 40 CFR 258.40(a)(2), it allows the use of alternative designs based on "equivalent" demonstrations. EPA does not feel that this ensures compliance with the Federal criteria. EPA will continue to work with Washington to resolve this issue.

Washington is using state approved flexibility to develop a program that ensures compliance with the Federal criteria while tailoring their program to the needs of the State. Washington's ground-water monitoring program, while not mirroring the Federal criteria, makes use of the available flexibility within the Federal rules to develop an alternative detection monitoring system. Washington is using its approved State flexibility to establish an alternative list of geochemical parameters in lieu of the heavy metals listed for detection monitoring in appendix I of the Federal criteria. EPA believes that this alternative detection monitoring program ensures compliance with the Federal criteria.

Not all States/Tribes will have existing permit programs through which they can ensure compliance with all provisions of the revised Federal Criteria. Were EPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR part 258, many States/Tribes would need to postpone obtaining approval of their permit programs for a significant amount of time. This delay in determining the adequacy of the State/Tribal permit program while the State/Tribe revises its statutes or regulations could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility available to States/Tribes with permit programs which have been approved as adequate. As a State's/Tribe's regulations and statutes are amended to comply with the Federal MSWLF landfill regulations, unapproved portions of a partially approved MSWLF permit program may be approved by the EPA. The State/Tribe may submit an amended application to EPA for review and an adequacy determination will be made using the same criteria as for the initial application. This adequacy determination will be published in the **Federal Register** summarizing the Agency's decision and the portion(s) of the State/Tribal MSWLF permit program affected and providing an opportunity to comment for a period of 30 days. The

adequacy determination will become effective sixty (60) days following publication if no adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments. The State of Washington is continuing to work towards resolution of the issues involved for those portions of its program that EPA does not feel are adequate to ensure compliance with all of the revised Federal Criteria. Unless the State of Washington makes further demonstrations that the Agency finds satisfactory, the State has agreed to revise the following portions of its permit program:

1. Washington will revise its definitions of "existing MSWLF unit" and "lateral expansion" to ensure compliance with the Federal definitions of the same (40 CFR 258.2).

2. Washington will revise its regulations for "standard designs" of nonarid landfills (WAC 173–351–300(2)(a)) to ensure compliance with 40 CFR 258.40(a)(2).

Washington submitted a schedule indicating that it will continue to work towards resolution of these non-approved portions of its MSWLF permit program. If the issues are not resolved by January 15, 1995, the State has agreed to initiate the necessary rule changes and have the new rules in place by October 9, 1995. To allow the State/Tribe to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, EPA is proposing to approve those portions of the State/Tribe's program that are ready for action today.

EPA reviewed the State/Tribe's schedule and believes it is reasonable because resolution of these issues may require multiple demonstrations and the State has agreed to a schedule that is realistic for the State of Washington's rulemaking process for any rule changes required.

The public may submit written comments on EPA's tentative determination until March 1, 1994. Copies of Washington's application are available for inspection and copying at the location indicated in the "Addresses" section of this notice.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for Washington's program. EPA will make a final decision on whether or not to approve Washington's program by June 1, 1994 and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: January 6, 1994.

Gerald A. Emison,

Acting Regional Administrator.

[FR Doc. 94–860 Filed 1–12–94; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer, Mary M. McLaughlin (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551; OMB Desk Officer, Gary Waxman (202-395-7340), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

Final approval under OMB delegated authority of the extension without revision of the following report:

1. *Report title:* Report of Medium-Term Note Issuance
Agency form number: FR 2600m, q, and s
OMB Docket number: 7100-0245
Frequency: Monthly or quarterly or semiannually
Reporters: U.S. corporations
Annual reporting hours: 107
Estimated average hours per response: 0.083
Number of respondents: 4 (FR 2600m); 250 (FR 2600q); 120 (FR 2600s)
Small businesses are not affected.
General description of report: This information collection is voluntary [12 U.S.C. 225a and 353] and is given confidential treatment [5 U.S.C. 552(b)(4)].
Abstract: These reports collect monthly balances of corporate medium-term note issues. Medium-term notes are interest-bearing noncallable corporate obligations with a maturity greater than 270 days but generally less than 10 years. The data are used in the estimates of corporate securities issues issued and outstanding.

Board of Governors of the Federal Reserve System, January 7, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-843 Filed 1-12-94; 8:45 am]

BILLING CODE 6210-01-F

National City Corporation; Application to Engage De Novo in Underwriting and Dealing in Certain Bank-Ineligible Securities on a Limited Basis, and Other Securities-Related Activities

National City Corporation, Cleveland, Ohio (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to engage *de novo* through its subsidiary, National City Investments Corporation, Cleveland, Ohio (Company), in various securities and securities-related activities described below.

Applicant proposes to engage *de novo* in the following activities previously authorized by the Board:

(1) Making and servicing loans pursuant to § 225.25(b)(1) of Regulation Y;

(2) Engaging in investment advisory activities pursuant to § 225.25(b)(4) of Regulation Y;

(3) Providing management consulting services to depository institutions pursuant to § 225.25(b)(11) of Regulation Y;

(4) Providing discount and full service brokerage services pursuant to § 225.25(b)(15)(i) and (ii) of Regulation Y;

(5) Underwriting U.S. Government, agency, state, and municipal securities pursuant to § 225.25(b)(16) of Regulation Y;

(6) Providing foreign exchange advisory and transactional services pursuant to § 225.25(b)(17) of Regulation Y;

(7) Engaging in futures commission merchant activities pursuant to § 225.25(b)(18) of Regulation Y;

(8) Providing investment advice on financial futures and options on futures pursuant to § 225.25(b)(19) of Regulation Y.

Applicant proposes to engage *de novo* in activities which previously have been determined by the Board by Order to be closely related to banking. Applicant proposes to buy and sell in secondary market trading all types of securities on the order of investors as a "riskless principal." Applicant proposes to underwrite and deal in municipal revenue bonds, residential mortgage related securities, consumer receivable-related securities, and commercial paper. Applicant also proposes to engage in the private placement of all types of securities and to provide related advisory services. In addition, Applicant proposes to act as agent in the purchase and sale of gold and silver bullion, bars, rounds, and coins for the account of customers.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be proper incident thereto." This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, "closely related to banking." Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

Applicant believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be proper incident thereto." The Board has previously authorized riskless principal and private placement activities, subject to certain prudential limitations which address the potential for conflicts of interest, unsound banking practices, and other adverse effects. *See, e.g., J.P. Morgan & Company Inc.*, 76 Federal Reserve Bulletin 26 (1990); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989). The Board also has previously authorized bank holding companies to underwrite and deal in municipal revenue bonds, residential mortgage related securities, consumer receivable-related securities, and commercial paper provided that the underwriting subsidiary derives no more than 10 percent of its total gross revenue from underwriting and dealing in the approved securities over any two-year period. *See Citicorp*, 73 Federal Reserve Bulletin 473 (1987) *aff'd sub nom. Securities Industry Association v Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir. 1988), *cert. denied*, 108 S.Ct. 2830 (1988), *modified by Order Approving Modifications to Section 20 Orders*, 75 Federal Reserve Bulletin 751 (1989). In addition, the Board has previously authorized bank holding companies to purchase and sell gold and silver bullion, rounds, and coins for the account of customers. *See First Interstate Bancorp*, 71 Federal Reserve Bulletin 467 (1985); *Midland Bank PLC*, 76 Federal Reserve Bulletin 860 (1990).

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities by Company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Applicants believe that the proposed activities will benefit the public by promoting competition. Applicants also believe that approval of this application will allow Company to provide a wider range of services and added convenience to its customers. Applicants believe that the proposed activities will not result in any unsound banking practices or other adverse effects.

In conducting these activities, Applicant will comply with the commitments and prudential limitations established by the Board in previous Orders, except that Applicant proposes to have one officer interlock and less than a majority, but no more than two, director interlocks between Applicant's subsidiary banks and Company. Applicant states that the Board previously has allowed director interlocks between bank subsidiaries and a section 20 subsidiary of a bank holding company. *See Synovus Financial Corporation*, 77 Federal Reserve Bulletin 954 (1991). Applicant also states that the Board has allowed officer interlocks between a U.S. branch of a foreign bank and a section 20 subsidiary. *See Barclays Bank PLC*, 76 Federal Reserve Bulletin 158 (1990). Applicant believes that the proposed interlocks are consistent with the prudential framework established by the Board in prior orders approving the proposed activities.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than February 2, 1994. Any request for hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, January 7, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-844 Filed 1-12-94; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Diseases Transmitted Through the Food Supply

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice of annual update of list of infectious and communicable diseases that are transmitted through handling the food supply and the methods by which such diseases are transmitted.

SUMMARY: Section 103(d) of the Americans with Disabilities Act of 1990 requires the Secretary to publish a list of infectious and communicable diseases that are transmitted through handling the food supply and to review and update the list annually. The Centers for Disease Control and Prevention (CDC) published a final list on August 16, 1991, (56 FR 40897) and an update on September 8, 1992, (57 FR 40917). No new information that would warrant additional changes has been received; therefore the list, as set forth in the first update and below, remains unchanged.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Morris E. Potter, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–09, Atlanta, Georgia 30333, telephone (404) 639–2237.

SUPPLEMENTARY INFORMATION: Section 103(d) of the Americans with Disabilities Act of 1990, 42 U.S.C. 12113(d), requires the Secretary of Health and Human Services to:

1. Review all infectious and communicable diseases which may be transmitted through handling the food supply;
2. Publish a list of infectious and communicable diseases which are transmitted through handling the food supply;
3. Publish the methods by which such diseases are transmitted; and,
4. Widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Additionally, the list is to be updated annually.

Since the publication of the revised list on September 8, 1992, no information has been received on additional diseases that are transmitted through handling the food supply. Therefore, the list set forth below is unchanged from the list published in the **Federal Register** on September 8, 1992:

I. Pathogens Often Transmitted by Food Contaminated by Infected Persons Who Handle Food, and the Modes of Transmission of Such Pathogens

The contamination of raw ingredients from infected food-producing animals and contamination during processing are more important causes of foodborne disease than is contamination of foods by persons with infectious or contagious diseases. However, some pathogens are frequently transmitted by food contaminated by infected persons. The presence of any one of the following signs or symptoms in persons who handle food may indicate infection by one of these pathogens: Diarrhea, vomiting, open skin sores, boils, fever, dark urine, or jaundice. The failure of food employees to wash hands (in situations such as after using the toilet, handling raw meat, cleaning spills, or carrying garbage, for example), wear clean gloves, or use clean utensils is responsible for the foodborne transmission of these pathogens. Non-foodborne routes of transmission, such as from one person to another, are also important in the spread of these pathogens. Pathogens that can cause diseases after an infected person handles food are the following:

Hepatitis A virus
Norwalk and Norwalk-like viruses
Salmonella typhi
Shigella species
Staphylococcus aureus
Streptococcus pyogenes

II. Pathogens Occasionally Transmitted by Food Contaminated by Infected Persons Who Handle Food, But Usually Transmitted by Contamination at the Source or in Food Processing or by Non-foodborne Routes

Other pathogens are occasionally transmitted by infected persons who handle food, but usually cause disease when food is intrinsically contaminated or cross-contaminated during processing or preparation. Bacterial pathogens in this category often require a period of temperature abuse to permit their multiplication to an infectious dose before they will cause disease in consumers. Preventing food contact by persons who have an acute diarrheal illness will decrease the risk of transmitting the following pathogens:

Campylobacter jejuni
Entamoeba histolytica
Enterohemorrhagic *Escherichia coli*
Enterotoxigenic *Escherichia coli*
Giardia lamblia
Nontyphoidal *Salmonella*
Rotavirus
Taenia solium
Vibrio cholerae 01
Yersinia enterocolitica

References

1. World Health Organization. Health surveillance and management procedures for food-handling personnel: report of a WHO consultation. World Health Organization technical report series; 785. Geneva: World Health Organization, 1989.

2. Frank JF, Barnhart HM. Food and dairy sanitation. In: Last JM, ed. Maxcy-Rosenau public health and preventive medicine, 12th edition. New York Appleton-Century-Crofts, 1986:765–806.

3. Bennett JV, Holmberg SD, Rogers MF, Solomon SL. Infectious and parasitic diseases. In: Amler RW, Dull HB, eds. Closing the gap: the burden of unnecessary illness. New York: Oxford University Press, 1987:102–114.

4. Centers for Disease Control. Locally acquired neurocysticercosis—North Carolina, Massachusetts, and South Carolina, 1989–1991. MMWR 1992; 41:1–4.

Dated: January 7, 1994.

Walter R. Dowdle,

Deputy Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–848 Filed 1–12–94; 8:45 am]

BILLING CODE 4160–18–P

Opportunity for a License for Nonpatented Material

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), National Center for Infectious Diseases (NCID), Division of Viral and Rickettsial Diseases (DVRD), Hepatitis Branch, has available for licensing recombinant proteins and synthetic peptides containing broadly immunoreactive antigenic epitopes to be used as immunodiagnostic reagents for the detection of antibodies to the Hepatitis C Virus (HCV).

FOR FURTHER INFORMATION CONTACT: If you are interested in the opportunity for a license to the nonpatented material described above, please contact the following for additional information.

Technical Contact: Howard A. Fields, Ph.D., Division of Viral and Rickettsial Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop A–33, Atlanta, GA 30333, telephone 404–639–2335.

Business Contact: Lisa Blake-Dispigna, Technology Transfer Representative, National Center for

Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–19, Atlanta, GA 30333, telephone 404–639–3227.

SUPPLEMENTARY INFORMATION: A set of recombinant glutathione-S-transferase fusion proteins have been prepared by using polymerase chain reaction to amplify the NS3–NS4–NS5 region of the hepatitis C virus (HCV) genome in 300 (monomers) and 600 (dimers) nucleotide fragments. Most of the monomers and dimers have been expressed in *Escherichia coli* and tested against a panel of anti-HCV positive and negative sera to ascertain specificity. A full length authentic fusionless recombinant nucleocapsid protein has also been prepared and tested as an immunodiagnostic reagent. This single protein alone will detect approximately 90% of anti-HCV positive sera. Synthetic peptides have been prepared to the nucleocapsid region in addition to the NS3–NS4–NS5 region. All the synthetic peptides have been tested to determine their immunoreactivity.

The nonpatented recombinant proteins and synthetic peptides are now available for licensing, and if interested, see **FOR FURTHER INFORMATION CONTACT** section of notice.

Dated: January 6, 1994.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–849 Filed 1–12–94; 8:45 am]

BILLING CODE 4160–18–P

Food and Drug Administration

[Docket No. 93N–0158]

Shulcon Industries, Inc.; Withdrawal of Approval of a New Animal Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Shulcon Industries, Inc., for use of pregelatinized starch as an antidiarrheal in newborn calves. FDA is taking this action because the firm failed to respond to a notice of opportunity for a hearing proposing to withdraw approval of the application. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing the entry which reflects approval of the NADA.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 17, 1993 (58 FR 33445), CVM provided a notice of opportunity for a hearing on a proposal to withdraw approval of NADA 111–068 held by Shulcon Industries, Inc., 4351 East Sarnac Dr., Tucson, AZ 86718, for use of Scourx® Calf Antidiarrheal (pregelatinized starch) in nonmedicated liquid feed or water for the symptomatic treatment (i.e., increasing fecal consistency) of nonspecific diarrhea in newborn calves. The application was approved December 20, 1983.

The notice of opportunity for a hearing stated that CVM was proposing to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of the NADA and all amendments and supplements thereto on the ground that the firm has failed to submit the reports required under 21 CFR 510.300. The firm was given until July 19, 1993, to file a written notice of appearance and a request for a hearing (58 FR 33445 at 33446). Shulcon Industries, Inc., failed to file such an appearance and request for a hearing.

Under § 514.200 *Contents of notice of opportunity for a hearing* (21 CFR 514.200), the failure of the sponsor to file a written appearance in answer to a notice of opportunity for a hearing constitutes a waiver of the right to a hearing and is grounds for CVM to summarily enter a final order withdrawing approval of the NADA.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 111–068 and all amendments and supplements thereto is hereby withdrawn, effective January 13, 1994.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 510.600(c)(1) and (c)(2) to remove references to the firm (the firm is no longer the sponsor of an approved NADA) and is removing 21 CFR 520.2155 to reflect the withdrawal of approval of the NADA.

Dated: January 4, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–812 Filed 1–12–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0019]

TPC Products, Inc.; Withdrawal of Approval of New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three new animal drug applications (NADA's) held by TPC Products, Inc., for use of certain phenothiazine-containing drug products. FDA is taking this action because the firm failed to respond to a notice of opportunity for a hearing proposing to withdraw approval of the applications. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing the entries which reflect approval of the only codified drug product, a combination of trichlorofon and phenothiazine powder.

EFFECTIVE DATE: January 13, 1994.

FOR FURTHER INFORMATION CONTACT: William C. Keller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 27, 1993 (58 FR 25653), FDA provided a notice of opportunity for a hearing on a proposal to withdraw approval of three NADA's held by TPC Products, Inc., P.O. Box 4308, 2021 North Grove St., Fort Worth, TX 76106. The firm held: (1) NADA 3–808 for the use of phenothiazine drench in cattle, (2) NADA 5–224 for the use of phenothiazine and lead arsenate drench in sheep and goats, and (3) NADA 13–685 for the use of trichlorofon and phenothiazine as a parasiticide in horses. The NADA's were approved April 24, 1941, June 8, 1945, and November 6, 1963, respectively.

The notice of opportunity for a hearing stated that FDA was proposing to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of the NADA's and all amendments and supplements thereto on the ground that the firm has failed to submit the reports required under 21 CFR 510.300. The firm was given until May 27, 1993, to file a written notice of

appearance and a request for a hearing (58 FR 25653). TPC Products, Inc., failed to file such an appearance and request for a hearing.

Under 21 CFR 514.200, the failure of the sponsor to file a written appearance in answer to a notice of opportunity for a hearing constitutes a waiver of the right to a hearing and is grounds for FDA to summarily enter a final order withdrawing approval of the NADA's.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 3–808, 5–224, and 13–685 and all amendments and supplements thereto is hereby withdrawn, effective January 13, 1994.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 510.600(c)(1) and (c)(2) by removing the entries to the firm (no longer the sponsor of an approved NADA) and is removing § 520.2520h *Trichlorofon and phenothiazine powder* (21 CFR 520.2520h) (the other two drug products are not codified) which reflects the approval of the NADA.

Dated: January 4, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–854 Filed 1–12–94; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[ORD–066–N]

Health Care Financing Research and Demonstration Cooperative Agreements and Grants for Fiscal Years 1994 Through 1996

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the availability of HCFA funding under cooperative agreements and grants for projects that will focus on major issues in the reform, financing, and delivery of health care. The notice contains information about the subject areas for cooperative agreements and grants that will be given priority, project requirements, application procedures, and other relevant considerations.

DATES: Cooperative agreement and grant applications for priority areas, as described in sections I. and II. of this notice, must be submitted by March 24, 1994, February 7, 1995, or February 6, 1996, in order to be considered under the annual funding cycle. For an explanation of timely submission, see section VIII. of this notice.

ADDRESSES: Standard application forms and related instructions may be requested by telephone, by calling (410) 966–6120, or may be requested in writing from and must be formally submitted to:

Ms. JuDee Caquelin, Grants Officer, Health Care Financing Administration, Office of Budget and Administration, Office of Acquisitions and Grants, Room 389 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

Ms. Caquelin is also available at (410) 966–5157 to answer questions and to provide guidance regarding completion of the application forms.

FOR FURTHER INFORMATION CONTACT: Carl Hackerman, (410) 966–6644, Health Care Financing Administration, Office of Research and Demonstrations, Office of Operations Support, Division of Program Support, 2–C–9 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

SUPPLEMENTARY INFORMATION:

I. HCFA's Research and Demonstration Projects Awarded as Cooperative Agreements and Grants

A. Goals

Our research and demonstration program conducts studies whose goals are to assess the current health care delivery/financing sector and to develop innovative ways to improve the quality and cost-effectiveness of health care programs. We support the conduct of extramural research and demonstration projects principally through two award mechanisms: procurements (contracts) and assistance awards (cooperative agreements and grants). This announcement concerns projects that will be awarded as cooperative agreements and grants. (Announcements of planned procurement awards are made through notices published in the "Commerce Business Daily.") The principal purpose of our cooperative agreements and grants program is to stimulate, support, and assist, through an active health services research and demonstration program, the resolution of major health care organizational and financing issues. We hope to advance knowledge in issues of health care financing and delivery and to develop ways of applying that knowledge. We believe this assistance will serve a long term and vital purpose—to increase the efficiency and effectiveness of the entire health care sector by improving the ways in which health care is financed and delivered.

Direct payments for health care services constitute one of the largest single segments of Federal and State budgets. In addition, employee health benefits paid by businesses add significantly to the cost of United States (U.S.) goods and services. Access to and quality of care and cost-effectiveness of current delivery systems and potential new financing mechanisms continue to be areas of significant research interest as we continually reassess current methods of payment for health care programs and look for innovative methods for paying for health care services in the future. The public interest in research in these areas is particularly great at this time as the Nation considers approaches to restructuring the health care sector and controlling expenditures for health care. Many of the research topics described in this solicitation reflect overarching issues that must be considered as part of health care reform.

These and other research interests described here are intended to provide information on controlling health care costs and restructuring current systems that will be useful to a broad audience, including State governments, private insurers, and self-insured businesses, as well as the Federal government.

This notice describes the application procedures, general policy considerations, criteria to be used in reviewing applications, and selection criteria for our cooperative agreements and grants. Our current research and demonstration interest is for applications that address the following areas:

- Health care systems reform and financing.
- Managed care systems.
- Provider payment.
- Access and quality of care.
- Service delivery systems.
- Subacute and long-term care.

B. Funds for Cooperative Agreements and Grants

A review of the requirements for existing priorities, our FY 1994 budget, and expected FY 1995 and FY 1996 budgets indicate that approximately up to $2 million to $4 million per year may be available to the Office of Research and Demonstrations (ORD), HCFA, to fund new cooperative agreements and grants for research and demonstration projects.

C. Eligibility Requirements

Applications for cooperative agreements and grants may be submitted by private or public nonprofit agencies

or organizations, including State agencies that administer the Medicaid program. Private for-profit organizations may apply for cooperative agreements and grants (discretionary funds) under sections 1110(a)(1), 1875(a) and 1881(f) of the Social Security Act; section 402(a)(1) of Public Law 90–248, as amended; section 222(a) of Public Law 92–603, as amended; and section 9335 of Public Law 99–509.

D. Number and Size of Projects

Most awards range from $100,000 to $350,000 per year for 1 to 3 years. We also may award some projects for larger amounts. The number of cooperative agreements and grants depends on: the availability of funds; needs of projects that are continuing from prior years; priority interest areas established by us; and the technical quality of applications.

E. Additional Information

Information on our authority for making these awards, applicable regulations, and the duration of funding is contained in section IV of this notice. Application procedures are detailed in section V of this notice.

II. Priority Areas

A. Health Care Systems Reform and Financing

The U.S. spends more per capita on health care than any nation in the world, yet many Americans have no reliable way to finance their access to our health care system. Growth in U.S. health care costs for several decades has been more than 4 percent faster than general inflation, and it now consumes more than one-eighth of our entire gross domestic product (GDP). If current trends continue, total health spending will reach or exceed 26 percent of our GDP by the year 2030. Medicare spending increased by nearly 300 percent in the past decade. Medicaid spending has increased by nearly 600 percent since 1980. U.S. businesses are spending more on health care premiums than they earn in after-tax profits.

There are some major distortions in the U.S. market for health insurance that yield inefficiencies: (a) Fragmentation of the marketplace, (b) the nature of consumer demand, including tax subsidies that lower consumer sensitivity to costs, (c) limited consumer information, which can lead consumers to mistake higher prices or more intensive service delivery for better care or superior outcomes, and (d) opportunities for favorable risk selection that give inefficient health care plans unfair cost advantages. Also, the substantial consumer and provider uncertainties about the effectiveness of a broad range of diagnostic and therapeutic procedures and technologies, plus the limited emphasis on disease prevention, contribute to overutilization and occurrences of preventable illness.

Critics suggest that the U.S. health care system is too complex and often lacking in accountability for the billions of dollars it consumes. Others would point to the excellence of what the U.S. health care system produces. While some aspects of the U.S. health care system are envied by most of the world, the sector appears rife with contradictory incentives for providers, patients, and payers. There is wide concern about the administrative costs of insurers and providers and that buyers are too weak to exercise market power. Experience rating practices, coupled with such underwriting devices as exclusions for pre-existing conditions and the requirements of various individual States for mandatory coverage of certain kinds of limited license providers or specified services, work synergistically to raise premiums beyond many persons' ability to pay and the ability of many small businesses to offer health insurance to employees.

We are interested in supporting research to address three general areas: (a) Extending access to needed services to all segments of our population, (b) controlling the growth in health care costs, and (c) improving the quality of health care services and products. These three subjects have become almost universally recognized as key areas by those who are committed to reforming our health care system. Therefore, we wish to sponsor research concerning major U.S. health care sector reform issues and also aspects of reforming health care financing incentives.

The types of issues in this category that we believe need study are grouped into two general areas: health care systems reform issues, and health care financing issues.

1. Systems Reform Issues

From these studies we hope to obtain useful guidance about how much restructuring of the current U.S. health care sector is necessary as well as feasible to implement and sustain.

• *Managed competition.* We are interested in research into the following topics to support the managed competition portion of health care reform:

—*Risk adjusters.* Under many health reform proposals, premiums to health plans would be adjusted to reflect enrollees' health risks. This would lessen incentives to select (and retain) only healthy enrollees. Plans that cover a sicker than average population would receive a transfer of funds from plans with a healthier than average population. Implementation of the system would require the development of health risk adjusters. Other issues need to be addressed, such as whether geographic variations in prices and utilization within State and sub-State areas should be recognized in the payment system.

The Administration's health reform proposal recognizes the need for risk adjusters and the reality that, in the short term, some reliance will need to be placed on retrospective approaches while work proceeds on prospective approaches. In the short term, risk adjustment may use reinsurance (based on costs or on fixed payments for high cost conditions and treatments), demographics, and survey data for risk adjustment/pooling. In the medium term, prospective systems relying on diagnostic, health status, and other information should be tested and implemented.

Health risk adjusters need to be designed, for both Medicare and non-Medicare populations including children, to predict expected health care costs based on the health status of the individuals to be covered by the system. Research projects could include work on a number of possible methodologies: Ambulatory care groups (ACGs); diagnostic cost groups (DCGs); payment amounts for capitated systems; ACG and DCG hybrid adjusters; and other risk adjusters based on more detailed clinical data, demographic data, administrative data, or survey data.

The Administration's proposal recognizes that special approaches, perhaps relying heavily on retrospective adjustments, need to be developed for mental illness. We are interested in private sector efforts in managed care for mental illness and how they may aid in the development of payment methods and risk adjustments for and in the management of mental health services in health reform. The Administration proposal recognizes that States may need to provide incentives for health plans to enroll and serve disadvantaged groups. We are interested in ways to modify the payment/risk adjustment methodology to provide financial incentives to ensure enrollment and access, and in ways to measure any extra costs associated with ensuring adequate care.

We are also interested in the development of databases and systems necessary to support health risk adjuster

methodologies and in risk adjustment mechanisms currently used in the private sector. We are interested in research on the sensitivity of risk adjusters to "gaming," on simulations of the effect of risk adjusters on premiums, and on ways to manage and monitor the system. We are interested in further research on other pooling mechanisms such as re-insurance and outlier payments for costly cases or diseases.

We are interested in shared risk arrangements between a payer and a plan or a plan and a provider.

While we are interested in both long- and short-term research, because of the importance of risk adjusters for managed competition approaches, projects of practical value that can be completed in a short time are a very high priority.

—*Administrative costs.* We are interested in funding projects that investigate possible changes in administrative costs associated with the provision of health care under reform and explore how administrative functions and costs might vary under health alliances of different sizes and with different characteristics. In particular, we are interested in projects that look at administrative functions and costs associated with health alliances (or other mechanisms that pool the purchasing of health insurance), and with the provision of large group health insurance coverage in the place of small and individual policies. We are interested in projects that consider changes in the administrative costs of insurance, of providers (for example, managed care arrangements, physician offices, and hospitals), and in States' administrative costs associated with their responsibilities under health reform.

—*Consumer behavior.* We are interested in funding projects that examine consumer behavior in choosing health insurance coverage. Particularly, we are interested in studies that estimate the potential for consumer shifts to lower cost plans provided by the health alliance under reform, and the size of potential savings that could be expected as a result of these shifts. A related area of interest is research that examines consumer choice when confronted with a variety of health coverage options (for example, traditional fee-for-service, health maintenance organization (HMO), and other managed care arrangements).

• *Consumer and beneficiary information.* Very little is known, from the viewpoint of either the beneficiary or the health care provider, concerning how consumers make decisions affecting their health care. Under the current system of health insurance, consumers (including Medicare beneficiaries and Medicaid recipients) often have little information on benefit plans, coverage restrictions, and cost-sharing, as well as the quality and/or efficiency of health insurance options. Improved information resources would enable purchasers to choose among health plans based on their relative value and quality and support the objectives of health care reform. Ultimately, improved information for consumers could give providers greater incentives to control costs while improving quality of services.

Information gaps are most prominent in the following areas: (1) Consumer knowledge of benefit plans, coverage, cost-sharing, and utilization controls, (2) effects of consumer knowledge on the selection of health plans, including the interaction of health status and expected level of use on choice; (3) the types of information most helpful in assisting consumers in selecting efficient providers, such as information about the costs and quality of services, and (4) the types of information that can be developed to help consumers to become knowledgeable about outcomes and costs of alternative treatments. We are interested in projects in all of the above areas, including projects that improve the information that Medicare beneficiaries and Medicaid recipients and other health care consumers receive (for example, assessing various ways of providing information to consumers) and evaluate the impact of improved information on consumer satisfaction, access to health care, quality of care, and the cost of health care services. These might include analyses of current HMO/CMP marketing practices that emphasize the "quality" features of their plan versus those of others.

• *International perspectives.* We are interested in detailed studies that analyze specific health care policies of other developed nations. Studies should examine specific features of other countries' health financing and delivery systems, with special emphasis placed on: health care cost containment; health care market characteristics, including the extent of managed care development; payment mechanisms, including negotiation-based approaches; modalities for delivering primary care; health care quality measures; health outcomes measures; health planning; and policies fostering lower infant mortality. Studies should evaluate system features or initiatives at a micro-level rather than use general aggregate information, and should include detailed analyses of relevant data. We would like to support studies of the reimbursement and payment systems used in other developed countries that evaluate the pertinence of these systems in the context of the U.S. health care system. Similarly, we would consider projects offering comparisons and evaluations of cost containment mechanisms used or proposed for other countries that might be considered for use in the U.S.

• *Analyzing global payment strategies.* We are interested in initiating both research and pilot efforts to develop global payment strategies. The effort would encompass approaches for developing budgets at national, State, sub-State, and community (including the rural community) levels. As currently envisioned, these projects would develop processes involving major sectors of the health care provider, practitioner, and supplier industries, with health alliances and other major purchasers of health care and public representatives, in the development of a global payment target for what health care spending should be in a near term.

We are also interested in other formula-based approaches or institutional mechanisms for establishing targets. We believe this will require more research into current health expenditure patterns, which examines their stability, and trends for population groups in geographic areas. Our interest also extends to studies of mechanisms for implementing or enforcing targets through such methods as third-party utilization review and controls on premiums. We want to know more about administrative features including data needs and reports, the monitoring for looming problems, the roles of voluntary mechanisms, and the options for mitigating financial gains or losses. We are also interested in studies of current methods of third-party utilization review and premium controls, and how these might be linked with performance-based quality measurements.

• *Assessing advantages and disadvantages of all-payer systems.* Issues of cost-shifting by providers and among payers have been discussed and analyzed for at least 50 years. Today, there appears to be a common understanding that only a small percentage of patients actually pay the full submitted charges from hospitals and physicians for the care they receive. By and large, publicly financed and operated programs pay at lower levels than do most private health insurance systems. Within the private health sector, larger insurers and employers are

often able to achieve acceptance of lower payments than those that smaller firms or plans can obtain. A wide variety of hospital and/or physician networks have developed, based in large part on the willingness of the providers to accept discounts from regularly billed charges and fees. In order to be able to determine whether uniform or "all-payer" systems for health care are desirable and feasible, we believe that more study of uniform payment system approaches that would be compatible with managed competition initiatives is warranted. We are particularly interested in systems that would encompass many kinds of health care providers, practitioners, suppliers, and their services including "mixed" models covering both managed care plans and traditional health insurance. We believe that initial steps will involve the careful design of systems that would take the following into consideration:

—The data needs for the construction and implementation of such a system and their sources, strengths, and limitations.
—Means for involving hospitals, physicians, and suppliers.
—Ways of involving all payers, both public and private.
—Administrative approaches.
—Consumer and community involvement.
—Transitional considerations.
—Resource requirements for development and operation of the system.
—Potential legal impediments (national, State, and/or local).
—Capabilities of States to develop effective systems.
—Likely impacts of such systems on health services costs, access, and quality.
—Consideration of the possible special circumstances of, and factors related to, rural communities that might necessitate different all-payer approaches.

• *Medicare Current Beneficiary Survey data and other new data bases.* In 1991, we launched the first round of a Medicare Current Beneficiary Survey (MCBS), a longitudinal panel survey that collects information on about 13,000 aged and disabled Medicare beneficiaries. Persons aged 85 and over and persons entitled to Medicare due to disability were oversampled to increase the sample size of these vulnerable subgroups. The MCBS collects a variety of information relating to the use of covered and noncovered services, including costs, insurance coverage, out-of-pocket expenditures, health status, income, assets, and living arrangements. Three interviews are conducted annually for persons living in the community and for the institutionalized.

Medicare administrative claims data, which contain detailed information on the use and cost of Medicare-covered services, are being linked with data collected from the MCBS. At this point, it is anticipated that a survey panel will run for about 3 years, although Medicare administrative data could be appended for many years thereafter. This data set will make possible studies of, for example, supplemental insurance coverage held by Medicare beneficiaries or out-of-pocket payments for health care services; consumer cost and consumer choice issues; for example, choice/satisfaction of Medicare beneficiaries enrolling in HMOs versus fee-for-service plans; Medigap employer coverage; and managed care information.

At this time, researchers have planned a series of analyses using the MCBS to examine whether or not the introduction of the Medicare physician fee schedule had an impact on access. Also, the MCBS is useful for the development of the adjusted average per capita cost, which is, in turn, useful for refining risk adjustments. We are interested in studies that seek to refine risk adjustment methodologies using the MCBS. In general, we are interested in encouraging proficiency in and use of this valuable database among additional researchers, particularly to address research issues and topics identified in this solicitation. In addition, in 1991, we established a National Claims History File (NCHF) system that facilitates access to Medicare claims data. The NCHF also is a rich source of data for analyses of health care services and financing issues. We encourage researchers to consider ways to use these data sets, when appropriate, in developing research projects.

2. Financing Issues

The aim of these studies is to find better ways for individuals, households, businesses, insurers, health care providers and institutions, communities, and governments to provide and arrange payment for needed health care services through improvements in the health care system and its financing mechanisms, including the following alternatives:

• *General financing approaches.* We continue to be interested in research on the design and impact of proposals for reducing tax burden on low-income taxpayers; income-related financing of premiums and/or copayments; changing the distribution of financing between taxpayers and beneficiaries; and examination of approaches such as medical savings accounts that encourage private savings for health care expenses.

• *Alternatives for Medicaid financing.* Medicaid covers an extensive variety of health care services, both acute and long-term care, and stresses benefits for eligible children and pregnant women. There are Federal minimum standards mandating particular services and populations to be covered, and a State can extend these minimums in a variety of ways. Federal payments are made to a State for a percentage of the benefit payments under its State Plan for Medical Assistance, and for a percentage of its costs in administering the plan.

—We are interested in ways to improve the Federal financing of, and arrangements with, State low-income health care programs. One area of interest involves the basic approach for determining the Federal assistance payments to States. Under present law, the Federal medical assistance percentage (FMAP) determines a percentage rate of Federal participation that is based on State per capita income levels. In 1991, these FMAPs ranged from 50 percent (the statutory minimum) to nearly 80 percent. We are interested in the assessment of alternative methods for computing the FMAP. Models might consider the potential impact (State-by-State) of (a) calculating the basic Federal matching rate based on State fiscal capacity or number of persons requiring health care subsidies instead of per capital income, with and without ceilings and/or floors; (b) modifying the FMAP to consider a State's actual Medicaid expenditures relative to its fiscal capacity; (c) paying for basic services to specific enrollee groups at a higher rate than other services or groups and/or limiting expenditures for nonbasic services (for example, personal care aides) to a percentage of that for basic services (for example, preventive care); (d) reducing the FMAP when expenditures exceed a specified threshold; (e) projects to examine linkages between Medicaid and workplace health insurance; and (f) projects that study alternative approaches to monitoring family income. We are highly interested in careful studies of competing ideas for improving the efficiency, effectiveness, and fairness of funding of health care for the poor and the uninsurable. These approaches might consider changes proposed in Federal funding and budgetary constraints

imposed under health care reform. For example, approaches could include: Methods for determining the level and composition of State funding of health care costs and determining the maintenance of that effort; equity across States in health care expenditures; the extent to which disproportionate share payments, as well as provider taxes and donations, are included in or excluded from the base used in calculating Federal payments; and the extent to which a State must provide residual Medicaid services to low-income persons or provides other health care services not included in the standard benefit package and the costs of that care. Another analysis might consider designing matching incentives according to the extent States use managed care arrangements. Considerations should also be given to approaches based on Federal global capitation payments to States; Federal or State or joint arrangements with private health insurers to provide health care coverage for low-income persons; and to approaches that rely upon those low-income individuals who receive health care subsidies to select an approach that they believe is suitable for themselves.

—We are also interested in projects or simulations uncoupling Medicaid acute care services from Medicaid long-term care to examine alternative Federal/State financing arrangements for each type of care. We are also interested in designs of approaches under which the Federal Government would capitate States for all or part of their Medical Assistance Plan in place of FMAP for those parts, in exchange for greater flexibility for States.

• *Private insurance financing.* Under current tax policy, the unemployed and many individuals in low-paying jobs do not benefit from the tax provisions associated with employer-paid health insurance. These tax incentives benefit higher-income employed persons who, in order to protect their incomes and assets, presumably would want to purchase insurance even in the absence of tax incentives. We are interested in analyses of these equity issues. Projects might examine a refundable tax credit that could replace the current tax exclusion. By using tax credits, rather than exclusions, the link between a taxpayer's marginal tax rate and the amount of the tax subsidy is eliminated. Such tax credits could also extend more of the tax subsidy to the unemployed, the working poor, and the self-employed. Other modifications of the tax code that might be examined include increasing deductions for self-paid premiums and/or setting caps on the amount of exclusion of employer's premium payments. But, these would appear to also result in larger subsidies to higher-income persons than to those with lower incomes.

Various models such as health insurance networks and health alliances have been identified as methods for extending the negotiating and purchasing power of large employers to groups of small employers. Models such as multiple employer trusts, multiple employer welfare arrangements, employer coalitions, and other approaches already exist that have allowed small employers to band together to purchase insurance that they could not have afforded alone. However, these arrangements have not been without problems and a number of these groups have become insolvent. We are interested in analyses of the strengths and weaknesses of these approaches. This interest also includes analyses of how such models would operate in rural and small metropolitan areas and whether modifications to the basic models, or alternative approaches, should be considered for these areas.

• *Supplemental insurance.* We are interested in studies of the demand for and use of insurance policies that supplement Medicare and other health insurance (including Medicare Select) and their effect on utilization of services and patient outcomes. Individuals and families might use supplemental policies to fill gaps in coverage and/or to cover deductibles and coinsurance, either of which might affect utilization. We would like to know what types of co-payment are used and what their relationships are to risk selection.

• *Alternative approaches to prepayment for health care expenses.* We are interested in projects that examine further incentives for individuals, businesses, and governments to improve risk-sharing approaches. We are interested in approaches that might undertake the sharing by the Federal Government of financing risks with States, communities, or private entities. For instance, for the Medicare program, we would be interested in the design of approaches involving public or private sponsors. These might be either a private entity such as a health insurer or a labor/management welfare fund or a State or local government agency that would assume the responsibility and risk for paying Medicare benefits for entitled residents of a defined area. If this were a public institution, its own program benefits would presumably be administered in the same manner (perhaps consolidating the Medicare and Medicaid benefits for the residents of a State). If this were a private entity, it would likewise coordinate administration of its private benefits with Medicare's benefits. Issues to be considered include rate-setting, performance monitoring, and distribution of gains or losses.

B. Managed Care Systems

Managed care refers to a diverse, and still evolving, set of alternative delivery models introduced over the past two decades. Managed care plans offer the opportunity for more cost-efficient use of health resources, expanded choices of health service delivery systems for consumers, and better health outcomes through effective care management.

Our interest in managed care encompasses a wide range of alternative service delivery, case management, payment and data systems that encourage or facilitate a cost-effective continuum of care, or that otherwise foster efficiency in health service delivery through management of the volume, intensity, and appropriateness of care.

In an effort to better understand and increase enrollment in HMOs, preferred provider organizations (PPOs), and other managed care plans, we are interested in a variety of research in two general areas:

1. Understanding Current Managed Care Techniques and Service Delivery Models

• *Identifying efficient and effective practices.* In order to expand our understanding of how managed care systems might best be structured to provide cost-effective, quality care, we need to understand the techniques and methods used by current managed care models, particularly those that may be determinants of successful risk contractors. We believe emphasis needs to be placed on studies that determine which features contribute most to the efficiency and effectiveness of specific managed care models, including the impact of these approaches on utilization, costs of care, and health outcomes. These studies should provide information to help identify those features that have potential for general application. The types of "best practices" in which we are interested include approaches for marketing programs to beneficiaries and other enrollee groups, enrollee education strategies, incentives to physicians, and the use of new technology by HMOs.

We are very interested in studies of how managed care programs deal with the challenges involved in enrolling

disabled and special needs populations. For example, studies could examine the experience of State managed care programs and identify best practices and lessons learned.

• *New models.* We are interested in studies and evaluation of new managed care models. We are particularly interested in the recent experience of new and evolving models such as primary care case management approaches, the use of primary care case management by private insurance and public programs, and its applicability to health care reform and/or existing programs such as Medicare and Medicaid.

• *Data and managed care.* We are interested in evaluation of prototype data systems and managed care. This is a critical area for managed competition and health care reform. We are interested in studies and development of claims data systems that capture needed information across alternative delivery systems and that serve complimentary objectives to fee-for-service data systems.

• *Barriers to entry.* We are interested in studies that provide an improved understanding of the factors that may present barriers to entry or expansion of existing managed care programs, including (1) physician attitudes toward HMO contracting, (2) the impact of the new resource-based fee schedule for physicians on their decisions to participate in HMOs, (3) factors that influence a Medicare HMO's decision not to participate in risk contracting, (4) barriers affecting enrollment of Medicare or Medicaid recipients in managed care systems, (5) State legislative and regulatory barriers, and (6) public attitude toward managed care plans.

• *Comparisons of managed and fee-for-service care.* We would like to support studies that examine the relative effectiveness of managed capitated systems compared to traditional delivery systems. We are interested in comparisons in terms of cost, quality of care, and, particularly, health outcomes. Although some prior research has been done on this issue, payment reforms and changes in delivery models and benefit packages have occurred in the interim that may have changed the relative cost-effectiveness of the systems and the impact of the systems on health outcomes. The following are examples of questions that appear to require answers:

—How satisfied are HMO/CMP enrollees versus fee-for-service enrollees?

—What are the short- and long-term effects of HMOs offering supplemental benefits (for example, coverage of prescription drugs)? Do these benefits tend to increase adverse selection into plans? Does an HMO's decision to provide non-Medicare-covered services in some cases result in better care? Are these benefits cost-effective in the long term by delaying or preventing more expensive illness and medical care?

—How do HMOs make use of new technology relative to the fee-for-service sector? HMOs provide a unique setting for analyzing the use of new technology, since HMOs do not have the incentives inherent in fee-for-service practice to use new technologies as services that can increase revenue. We are interested in studies that provide information about the extent to which new technologies are accepted and used in HMOs versus the fee-for-service sector in terms of the types of technology utilized, the extent of this utilization, and the effects of utilization on health outcomes. We are interested in knowing whether the use of new technologies more closely resembles fee-for-service patterns in certain types of managed care plans—for example, individual practice association models versus staff model plans; or hospital-controlled plans versus physician-controlled plans. Studies in this area could examine use of information technology as well as medical technology.

—What are the impacts of recent fee-for-service payment reforms (for example, prospective payment systems and physician payment reforms) on managed care plans? Have these changes in payment methods altered the ability of managed care plans to attract providers into risk-sharing arrangements or to contract with providers on a discounted fee-for-service basis? Has risk-sharing between HMOs and physicians been reduced? Have physician payment reforms made primary care physicians less likely to contract with HMOs and specialists more likely to do so? What are the effects of these reforms on the ability of managed care plans to reduce utilization below fee-for-service levels?

—What is the relative cost-effectiveness of various managed care models? How do HMOs, PPOs, Federally Qualified Health Centers (FQHCs), and other organizational models compare with each other and with fee-for-service in terms of cost-effectiveness and outcomes of care?

—We are also interested in studies that examine the quality of care among managed care systems and whether there are differences between the quality of care provided under such systems and under traditional fee-for-service systems, with emphasis on health outcomes, particularly outcomes over an extended period (for example, 6 months to 1 year after an event). Similarly, we are interested in studies that examine whether there are differences in access to, and utilization of, certain types of services in managed care systems versus traditional delivery systems. For example, what type and levels of preventive services are provided in HMOs or in FQHCs? Are there differences in rates of expensive procedures (for example, hip replacement and coronary artery bypass graft)? We would like to be able to identify and evaluate tools to assess the effectiveness of quality assurance systems and the quality of medical care being provided to enrollees in both managed care and fee-for-service systems. The studies might also provide suggestions on effective measurements including both process of care and alternate outcome measures (for example, readmissions and complications) and suggest how they might be incorporated into monitoring programs.

• *Quality of care.* We are interested in studies that provide improved information to measure the quality of care provided in managed care systems, including measurement of health outcomes, development of performance standards for managed care providers, and assessments of different quality review systems used by HMOs. Our interest includes projects that develop improved tools for assessing the quality and effectiveness of care in HMOs. Also, we are interested in cost-benefit studies that examine trade-offs between investment in administrative systems (for example, computer-based data systems) and other case management efforts (for example, utilization reviews).

• *Targeting approaches.* We would like to support additional work to develop: (1) Techniques to better target managed care interventions and/or to be able to establish risk-sensitive payments to managed care plans and providers (for example, through the analysis of provider and/or beneficiary claims history data); and (2) methodologies to assess the cost-effectiveness and relative value of alternative utilization management interventions, such as

provider education efforts, provider incentives to reduce utilization, more intensive prior or concurrent review applied to selected providers, specialties, or services, and beneficiary-oriented utilization management interventions. These approaches may include case management or "gatekeeper" systems to minimize the risks of excessive or inappropriate service use, interventions targeted toward "high-cost" patients, and consumer information and counseling programs (for example, management of exceptionally high-cost medical cases).

• *Private sector activities.* We are interested in studies that examine the experiences of private sector managed care activities and retiree programs and identify lessons for managed care programs serving Medicare beneficiaries and Medicaid recipients.

2. Developing Alternative Managed Care Service Delivery Models and Payment Systems

We are interested in improving current health care delivery and payment systems through the development and testing of alternative models, including the following areas:

• We would like to support projects that assist potential enrollees in choosing, accessing, and effectively using managed care services. We are particularly interested in developing and testing approaches to promote informed choice, to reduce burden, and to minimize biased selection in consumer access to managed care systems, such as coordinated open enrollment or enrollment through independent entities capable of facilitating unbiased access to managed care systems.

• Our interest in development of improved risk adjusters, identified previously in the section on Health Systems Reform and Financing, includes an interest in studies that develop improved risk adjusters for the adjusted average per capita cost payment system for Medicare HMOs.

• We are interested in studies that examine the use of competitive bidding approaches to establish payment levels for HMOs, for example, studies to synthesize existing information and research, and studies that analyze data to estimate the payments and effects of these types of approaches.

• Recognizing that managed care models also involve providers paid on a fee-for-service basis (such as PPO networks and various utilization and/or case management systems), we are interested in studies and demonstrations that develop and/or test cost-effective payment methods for these fee-for-service-based managed care models. Examples of such projects include (a) methodologies to establish and ensure cost-effective payments for the administrative costs of the PPOs, case management, or other organizations administering these managed care systems, including incentive payment arrangements based on measures of program benefit savings (or losses) achieved by such entities; (b) approaches to establishing cost-effective fee-for-service payments to affected providers, or otherwise controlling their costs (for example, through negotiated discounts, bundled payments, incentive arrangements with participating providers, resource-based relative value units, or flexible allocation of coverage and payment allowances within pre-established limits); and (c) studies that examine the applicability of such mechanisms in the Medicare and/or Medicaid programs, including the use of independent entities such as PPOs or "brokers" to establish alternative payment arrangements within fee-for-service-based managed care models and point-of-service PPOs that incorporate negotiated rates with providers and strong incentives for beneficiaries.

3. State Level Managed Care Program

With increased emphasis on managed care, the program parameters that administrators use to monitor program and recipient performance are, increasingly, program data. In the past, this was the claim form itself. In many capitated systems under managed care, claims are nonexistent. Instead, practitioners are paid on a salaried basis and work in terms of patient encounters. Key questions that need to be addressed follow:

• We wish to develop, demonstrate, and evaluate data systems that capture needed information across alternate delivery systems, not just for fee-for-service systems. We would like to know what data elements are critical for administrators to track in a managed care setting? How can these be related to the fee-for-service environment? What portions of current automated data systems are appropriate for capturing information on managed care?

• From what lessons learned in the private insurance sector may regulators benefit? Which States are doing a "better" job of handling this fluid data environment? Why? What lessons can be learned from these States that would be useful to other States?

C. Provider Payment

In FY 1991, Medicare payments amounted to $114 billion and are expected to exceed $160 billion by FY 1994. By far the greatest part of this amount is for payments to hospitals for inpatient and outpatient services (64 percent), followed by payments for physician and supplier services (30 percent). The latest data show that hospital costs have increased by a rate of 9 percent during FY 1990. Simultaneously, between FY 1980 and FY 1990, Medicare spending for physician services per beneficiary tripled, increasing at an annual rate of over 12 percent. Even with physician payment reform, total Medicare expenditures are expected to increase at an annual rate of 12 percent from 1991 to 1996. In FY 1994, Medicare expenditures for physician and supplier services are expected to be $44.3 billion.

The rise in payments for hospital outpatient services is no less dramatic. In recent years, Medicare benefit payments for outpatient hospital services have increased more than twice as fast as payments for inpatient services. Between 1986 and 1991, inpatient hospital payments increased from $46.4 billion to $63.2 billion, an increase of 35 percent with an annual rate of change of 6.2 percent. For outpatient hospital services, payments rose from $5.1 billion to $9.8 billion, an increase of 90 percent with an annual rate of change of 13.7 percent.

While the data described here relate to a large public program, similar increases can be found in the private sector. Given the recent attention to the rate of increase in national health expenditures, we have supported, and will continue to support, research that explores promising approaches to reform the way in which services are purchased from providers. In particular, we are interested in studies and demonstrations in the following areas:

• *Characteristics of efficient providers and methods for determining efficiency and effectiveness.* Classical economic theory makes a series of assumptions about the characteristics of a perfectly competitive market and the behavior of consumers and providers. If these assumptions are met and the firm behaves rationally, the theory states that the firm will minimize production costs thereby achieving economic efficiency and the firm will set its level of output so that the marginal cost of producing an additional unit is equal to the price.

A perfectly competitive market is often not the case, however, especially in the health care sector, where many of the conditions that will, in theory, lead to economic efficiency are lacking. Most providers are nonprofit; patients are not fully informed about their diagnosis, alternative treatment modes, quality of different providers and prices charged

by different providers; many consumers have extensive insurance coverage, which reduces their price sensitivity; and there are significant legal and regulatory barriers to entry into the market in the form of licensing for professionals and certificate of need requirements for hospitals. As a result, there is less reason to believe that health care providers and provider managers are striving for maximum economic efficiency. For example, under the economic theory of cost minimization, hospitals should purchase technology only if it will result in decreased costs or higher quality. However, unlike industries where capital investments are typically made to reduce total costs, in the hospital industry, capital costs typically lead to increases in operating costs as well. There is a concern that the availability of technology will create a demand to use the service and thereby increase the intensity of services provided. The expensive technology adds significantly to the hospital's cost, and it is frequently underutilized. In addition to increasing the level of expenditures, if an adequate level of proficiency in a new technology cannot be obtained through a sufficient volume, there can be a higher than necessary rate of complications and deaths, as is seen in the example of open heart surgery. While the introduction of the prospective payment system (PPS) for hospitals and physician payment reform are changing the environment somewhat, health care providers do have multiple objectives and therefore do not operate to provide their services at the lowest cost.

Accordingly:

—We are interested in studies that investigate the characteristics of hospitals that are efficient in the sense of providing patients an adequate level of care in the least costly manner. In defining hospital efficiency, it is critical that account be taken of the impact of technological change on the services provided by hospitals. Differences in services (or "outputs") must be controlled for and judgments must be made about appropriate levels and/or mixes of services. Hospital efficiency may need to be evaluated in the context of risk-adjusted population-based utilization measures that reflect systemwide utilization.

—We would also support studies that develop criteria for identifying efficient medical practices, and methods for examining their practice costs.

—We are interested in studies that provide improved understanding of the determinants of hospital costs, their differences across hospitals, and the growth in volume and intensity of services in hospitals; the implications of growing resource intensity of inpatient care and decline of inpatient volume for hospitals, patients, and health care expenditures; and effects of changes in the marketplace on patient care, hospital market structure, and hospitals' financial relationships with other providers such as home health agencies, skilled nursing facilities, and ambulatory surgical centers.

—We are interested in analyses that would examine cost data for outpatient departments and/or ambulatory surgical centers to distinguish between efficient and inefficient providers and to identify determinants of efficient performance for high quality care. These studies might examine characteristics of efficient hospitals, particularly within a major category of hospitals (for example, size, urban/rural, teaching/nonteaching) in providing outpatient care. Traditionally, we have used the following approach to establish prices for inpatient and outpatient hospital services and physician and supplier services. Under the direction of legislation, historic data have been used to establish a fee-for-service payment amount for physician and supplier services that is then trended forward with adjustments for increased productivity and inflation. Increasingly, we have had difficulty accurately reflecting productivity gains and the true cost of new technology in our fee schedules. We are interested in studies that develop new methodologies for these purposes.

• *Payment systems that promote efficiency.* We are interested in testing payment systems that promote provider efficiency while maintaining an adequate level of care.

The private sector has used the market to establish prices for provider services through the use of a variety of models. HMOs, employer groups, and insurance companies all use a variety of selective contracting arrangements that use competitive pricing. These approaches have the advantage of forcing the provider to reveal prices for which they can provide the services after factoring in such variables as increased productivity, new technology, and the use of alternative services. We are interested in research examining, analyzing, and comparing the mechanisms these approaches use to establish prices for health care services. While the private sector uses the market to establish prices, it recognizes that ensuring quality of care is an equally important aspect of the selection process. Accordingly, great attention to quality of care is included in the payment system. We are interested in further testing of administrative mechanisms (such as PPO arrangements) that use market forces to establish prices in large geographic areas.

• *Bundling provider payments.* We continue to be interested in testing a bundled payment option for all services routinely furnished within an episode of care. By combining the payment for physician and facility services into one price, this approach enables health care providers to allocate medical resources based upon their own discretion while coordinating the delivery of medical services and often divergent incentives to maximize efficiency and quality. We are currently testing payment models of this type for coronary artery bypass grafts and cataract surgery. We are interested in supporting the development and testing of similar approaches for other types of medical and surgical procedures and/or other types of patients or development of classification systems and weights for combined systems.

• *Refinements to the hospital PPS.* The evolution and extension of PPS for hospital services creates an ongoing need for research to develop and evaluate refinements to existing payment methods. We are interested in studies of refinements to the present PPS, including the following:

—Improved geographic adjusters, including alternative methods of constructing the hospital wage index and defining labor market areas, and use of alternative sources of data.

—Studies that examine sources of case mix intensity changes, and methods of classifying patients by resource use.

—Studies related to the possible effects of the new capital payment regulation.

—Studies that develop methods to evaluate new technologies and that examine the influence of new technologies and procedures and how they should affect payments (for example, effects on diagnosis-related group (DRG) weights, studies of the cost and necessity for computerized axial tomography, and magnetic resonance imaging).

—Development of prospective payment systems for types of hospitals now excluded from PPS.

• *Payment for physician services.* We are particularly interested in projects

that develop, refine, and/or test alternative payment systems for physician services that include incentives to control the growth in expenditures for physician services, particularly approaches that involve coordinating or bundling payments for physician services and for related health care services. The current fee-for-service system for billing and paying physician services under Medicare generates about one-half billion billed services each year, and this number has been growing rapidly. This rapid growth has been accompanied by growth and expansions in the numbers of nonphysician services paid by Medicare and continues to complicate the Medicare payment system. In the early 1980s, the Congress directed us to examine whether the DRG system used for inpatient hospital prospective payment might be used to also pay physician services (section 603(a)(2)(B) of Pub. L. 98–21). As explained earlier under the discussion of hospital payment issues, we are interested in research to determine whether there are more feasible methods for coordinating or bundling payments for physician and related health care services provided to a patient. These might range from approaches that merely bundle payment for fairly standard tests with visit payments, to systems that examine services of all physicians and others who provide care to the same patient. Such systems could include hospital medical staff models, models based on physician groups, or methods that profile the amounts and kinds of care provided to patients. We are interested in research to identify opportunities to increase the efficiency of the Medicare fee schedule payment system for various types of physician specialties or services, and in studies that provide a better understanding of physician practice costs and whether/how these costs are changing over time, for example, studies that examine resource-based practice expense allocations and risk-based malpractice allocations or a service- or category-specific risk-based approach to allocate malpractice expenses. We also seek alternative approaches for valuing payments for nonphysician services. We are interested in projects for options that might be used to encourage more primary care.

• *Outpatient services.* We are placing a high priority on the issue of payment for outpatient services because of the rapid growth of expenditures in this area and the potential to significantly benefit from reform. Unlike inpatient services, which are primarily paid for on a prospective basis, most hospital outpatient services are paid for based entirely or partially on costs. As a result, there are only limited incentives toward efficiency. Thus, we would like to complete our work on the development and evaluation of prospective payment for outpatients as we move toward implementation and to sponsor additional research on several related issues.

Over the past several years, we have sponsored several research projects relating to payment for outpatient services and the development of possible models for a prospective payment system for outpatient services. This research has covered several topics, including the development of Ambulatory Patient Groups (APGs), a typology of outpatient services that can be used for a PPS for outpatients; research into the resource costs of delivering outpatient services in a variety of settings, including outpatient departments, ambulatory surgery centers, and physician offices; and a series of analyses of the outpatient setting and the potential effects of implementing an outpatient PPS. In addition, we have sponsored the development and implementation of a PPS for use in a State Medicaid Program and have sponsored the evaluation of this system.

As we move toward the possible implementation of a PPS for outpatient services in the Medicare program, we are interested in supporting and stimulating additional efforts in this area, for example, research related to the following:

—Additional research into the resource costs of providing ambulatory care in a variety of settings, including research into the effects of volume of services on fixed costs and research into the effects of administrative costs on per service costs of care.

—Additional refinement of APGs, especially in areas such as mental health treatment where existing International Classification of Diseases, 9th revision (ICD–9) codes may prove an inadequate basis for estimating resource consumption on the basis of diagnosis.

—Continuing research into the impacts of various payment approaches on various types of providers.

—The impact of new technologies and program changes related to outpatient care.

—Bundling of outpatient services: The extent to which services such as diagnostic services (for example, laboratory tests, radiology, and other tests), physician professional services, and/or other services are bundled into the payment for the outpatient visit is an important issue. Bundling gives providers incentives to use the packaged services more efficiently. We encourage additional research on alternative methods and approaches (for example, separate payment for bundled physician and hospital services, and payment for bundled services combined with the facility payment) to bundle outpatient diagnostic, physician professional, and/or other services, as well as examinations of potential provider responses to bundling various types of services.

—Alternative sites of care: There has been proliferation of types and numbers of outpatient sites of care in recent years, with a large growth in ambulatory surgical centers, freestanding radiology centers, and other sites that compete with hospital outpatient departments. We are interested in studies that examine the determinants of growth of alternative providers of hospital outpatient services and also studies that analyze resource costs and outcomes at hospital outpatient departments and at alternate sites of ambulatory care.

—We are interested in studying and testing alternative payment arrangements for rural hospitals and allied providers that promote both access to care and economic efficiency.

—We are interested in projects that demonstrate and evaluate the effectiveness of rural telemedicine systems and in projects to develop, pilot test, and evaluate payment methodology for telemedicine consultations.

• *Controlling volume and intensity growth.* We are interested in studies of approaches for controlling unwarranted growth in the volume and intensity of all kinds of personal health care services. These might also examine the impact of Medicare's current volume performance standards for physicians and alternative formulations of these standards.

D. Access and Quality of Care

We wish to support projects that develop knowledge that can be used in assessing and improving access and quality of care, especially for underserved populations. During the more than a quarter of a century of operation of the Medicare and Medicaid programs, access and quality of care have been public policy issues, and they will continue to be so. We believe emphasis is indicated in the following areas:

• *Studies relating to basic access issues, for example, system capacity.* Projects that examine the basic capacity of the health care system, including primary care, specialty care, and inpatient services, are of interest to us. Studies that treat these issues in the light of health care reform are of highest interest.

• *Studies relating to the maternal and child health populations.* Projects that develop methods for assessing access and quality of care for these populations are of highest interest. Examples of possible studies would be the application of quality of care measures to (a) the study of Medicaid capitated, Medicaid noncapitated, and capitated non-Medicaid maternal and child groups within a State; and (b) emergency room use by Medicaid recipients, the privately insured, and the uninsured for selected clinical conditions.

Poverty is associated with higher mortality and morbidity rates starting at the youngest end of the age spectrum. This is reflected in the higher incidence of poor pregnancy outcomes, including low birth weight, birth defects, and infant death. Increasing numbers of poor children, lacking adequate health care, suffer from preventable conditions such as iron deficiency anemias and high lead blood levels, thus impairing mental and physical development. Additionally, because of marked declines in immunization rates among poor children, they have a higher incidence of infectious diseases. This is the population that the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program is focused on.

There is a need to develop more appropriate health services for vulnerable populations groups, such as pregnant women and children. Prenatal care is the first step in the obstetric chain that includes labor and delivery, birth outcomes, and infant health. Prior studies suggest that adequate prenatal care is cost-effective and generally correlated with birth outcomes such as infant mortality, birth weight, and prematurity, thereby reducing costs for subsequent health care. Yet, between 1980 and 1989 the proportion of mothers receiving late or no prenatal care increased for each age group except mothers over the age of 35. At the same time, there was a 50 percent rise in the proportion of mothers in their twenties receiving late or no prenatal care. Neonatal and postneonatal death rates for nonwhites are more than double those of whites. Factors that are positively and negatively associated with an individual's receipt of early and adequate prenatal care need to be studied.

Black and low-income children receive the least amount of health services, especially for those conditions that call for early intervention and more intensive treatment and follow-up. Utilization of preventive care services for children and the adequacy of outreach programs need further investigation.

Approaches to extend health care to these populations, such as Medicaid eligibility expansions or the EPSDT populations, do not ensure adequate access to care. Issues related to the availability of health providers and appropriate utilization of services have led many States to encourage managed care systems. The extent to which managed care improves the quality and availability of care for the poor, especially women, infants, and children, needs to be studied further. In addition, studies are needed to assess what protective mechanisms are in place to safeguard against adverse outcomes for these vulnerable population groups.

We also would be interested in comparative studies of delivery systems in other countries for maternal and child health and for prenatal care and their possible effects on maternal and child health outcomes.

• *Women's health issues.*

Recently, in response to public policy concerns that women had not been included in many of the biomedical studies sponsored by the Federal Government, a number of studies and clinical trials have been designed to focus on women's health issues. While health services research studies of the Medicare and Medicaid populations have often examined issues relating to women's health—such as insurance coverage of pregnant women and children, the use of cardiac procedures in hospitalized patients, and the characteristics of elderly women living alone—there are many other areas of inquiry relating to access, quality of care, and effectiveness that could provide new knowledge for the development of health policy. For example, health services research studies of Medicaid and other low income groups that examine access to family planning and the prevention, treatment, and screening for sexually-transmitted diseases and acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus-related conditions would be desirable. Also, studies relating to risk factors, prevention, and effectiveness of different treatments for heart disease, cancer, osteoporosis, depression, substance abuse, and alcoholism in women are of interest. In addition, we are interested in health services research studies that shed light on the potential effects on women of various health care reform options, especially those relating to the financing and delivery of health care services.

• *Studies relating to prevention and special services.* There is a growing consensus that prevention of illness is fundamental to improving health status as well as an important factor in curtailing the escalation of health care spending. Preventive services are important for the Medicaid population; several preventive services, including the Maternal and Child Health populations, are now included under Medicare. Studies that focus on access to these services are of interest to us.

• *Studies relating to early retirees.* We are interested in examining the incentives related to health care coverage and benefits and out-of-pocket costs in the context of early retirement. What are the factors affecting early retirement? What are the utilization patterns of early retirees?

• *Maintaining Medicare eligibles within mainstream Health Alliance structures.* When early retirees age sufficiently to become eligible for Medicare benefits, they must decide to stay in their Health Alliance or enroll in Medicare. This could involve a change in providers, caregivers, and coverage limits, as well as the change of insurer. What are the strategies for maintaining continuity of care and coverage for care when an early retiree becomes eligible for Medicare?

• *Research and demonstration projects that develop methods and applications for applying knowledge about quality and appropriateness of care.* Projects that develop the components and methodology for quality reporting systems for accountable health plans, including appropriate controls for illness severity or projects in which the results of research about quality of care are used or adapted locally by public and private organizations responsible for ensuring utilization and appropriateness of care, are of special interest to us.

• *Over- and under-utilization of health care.* Both over-and under-utilization of health care are problems that can lead to unnecessary expenditures, and we believe this misutilization is at least partially related to access to care. We would like to support studies in this area. Comparative assessments of utilization and expenditures by the privately insured, Medicare, Medicaid, and the uninsured populations are important

parts of such studies. We encourage studies to develop criteria for judging over- and under-utilization from claims data or in managed care settings.

We are also interested in supporting projects that implement counseling programs for patients and providers to improve their understanding of the patient's right to decline medical treatment and/or to formulate advance directives.

• *Education and feedback.* There are indications that education and feedback are important components in maximizing the dissemination of knowledge that can improve quality of care. We are interested in supporting projects that test methods of providing information to, and educating, practitioners and reviewers of medical care in a way that achieves appropriate changes in physician and provider behavior.

• *Prescription drug payment and related studies.* Recent or proposed changes in Federal drug payment and other policies have affected the marketplace for prescription drugs. For example, the Omnibus Budget Reconciliation Act (OBRA) of 1990 imposed limits on price increases of Medicaid drugs and mandated rebates, drug utilization review, and patient counseling. The Veterans Health Care Act of 1992 mandated a minimum discount of 24 percent for all Federal drug purchases. And, the Administration's Health Security Act proposes to mandate a basic rebate of 17 percent for a Medicare drug benefit program. In addition to the greater role played by the Government as purchaser of pharmaceuticals, a number of other changes have affected the market: the growing importance of price conscious managed care, rapidly emerging biotechnology, recent changes in the tax law (that is, OBRA 1993), and increasing generic competition. We are interested in supporting both empirical and theoretical research to examine the effects of payment and other broad policies (for example, formularies, prior authorization, drug utilization review) on the use of drugs, expenditures for drugs, and the development of new products.

—*Academic Detailing.* Drug utilization review programs may detect aberrant patterns in a physician's prescribing behavior. Different means of contacting physicians have been used, including letters, telephone calls and visits (known as academic detailing) to the physician by a trained physician or pharmacist. We are interested in studies and demonstrations of the effects of the use of person-to-person interventions to influence physician prescribing practices in both public and private insurance programs and other settings. Three important areas are: The relative costs of academic detailing compared to existing program interventions that influence physician prescribing; who, how, and what drugs or diseases to target; and the development of cost-effective approaches for such programs.

—*Prior Approval.* Medicaid programs and private insurers have instituted prior approval programs to control the use and cost of prescription drugs. A prior approval list contains medications requiring authorization for use prior to reimbursement by insurers. We are interested in studies relating to the effects of such programs on access to prescription drugs and their impact on use, outcomes, and costs of services. We are also interested in studies that examine the decision making process of placing drugs on a prior approval list and the consistency across prior approval programs.

E. Service Delivery Systems

Providing affordable health care to all Americans while containing health care spending growth and maintaining the excellence of health care services requires not only the comprehensive assessment of how health services are and should be financed, but also the assessment of how health services are and should be delivered. Policy makers have assumed that higher payments for health services will ensure access to services and increase the supply of providers—institutional or professional, where the services are needed. This, however, is not necessarily the case. Health delivery systems are affected by specific delivery characteristics as well as the medical care provider payment system. System characteristics are important irrespective of the financing mechanism for payment of services. We are interested in comprehensive and balanced studies of what features of health care delivery systems are effective in ensuring that services are available in geographic areas that may be currently underserved (for example, urban inner city and rural or frontier areas); and what methods may be effective in restraining growth of the health infrastructure in areas that are, by many measures, oversupplied or overutilized. We seek more than an enumeration of the current situation; rather, we seek to understand what should be undertaken in preparing for the future. We desire a comprehensive review of the U.S. health service delivery sector that examines demographic, behavioral, and economic factors that influence the U.S. health delivery sector and an examination of new provider delivery settings. Toward this goal, we are interested in examining: (a) How markets arrange for and allocate health resources, the supply of health organizations or institutions or professionals, and the geographic distributions of resources within the health delivery system, especially rural/inner city issues; (b) personnel and medical professional manpower issues; and (c) the study of new provider settings and service delivery approaches.

• *Allocation of health resources.* We would like to sponsor examinations of how markets arrange for and allocate health resources, the supply of health organizations, institutions, or professionals, and the geographic distribution of resources within the health delivery system; and studies of alternative delivery systems and financing models to address the many problems faced by the health care system. We are interested in studies that do the following:

—*Develop resource distribution planning models.* Mechanisms to better distribute health care resources to meet underserved rural community and inner city needs are of interest to us. These may include the creation of networks of health care providers that ensure access for rural and inner city residents to an organized system of providers that covers the entire continuum of care.

—*Develop additional alternatives to those rural hospitals that are no longer viable in their communities.* These alternatives may include both inpatient and outpatient models with both physician and nonphysician providers.

—*Investigate what health planning models and assumptions are useful and have been successful.* Although in the late 1980s some mandatory planning models were considered by some to be ineffective in reducing capital expansion and health spending, are there successful health system resource and services planning models that should be reexamined? Additionally, we know very little about effectiveness of the voluntary business and health provider coalitions that have emerged. Some States consider health planning extremely useful and have continued certificate of need programs. We are interested in studies of what constitutes a successful planning program.

—*Develop measures of capacity.* We need to critically reanalyze commonly accepted measures of health system capacity to determine if measures such as beds per capita, full time employees, hospital admissions, average length of stay, bed occupancy, and other institutional measures of utilization are appropriate (adequate) measures of the supply and stock of services that should be provided.

• *Health and medical professional manpower issues.* In order to more fully understand the relationship between health financing models and the supply of health resources, we are interested in exploring the factors that influence the supply of health professionals, specialty training, and geographic dispersion. An example of the types of questions of concern here would be: Can the elements of the educational process and the "service" aspects of medical interns' and residents' training be disentangled? If they can, what would be a minimum medical school curriculum for safe practice, given some educators belief that much of an intern's and resident's time is spent in service tasks, not educational efforts. Examples in this area include:

—*Medical education financing effects on practice choices.* We are interested in projects that consider how Medicare funds currently paid to hospitals in the form of direct medical education payments or indirect medical education adjustments to prospective payments for inpatient hospital care can affect the specialty and type-of-practice choices of physicians.

—*Incentives for nonhospital ambulatory training sites.* Such studies could focus on developing model approaches to encourage more noninpatient training sites and facilitate the training of more primary care and minority physicians in settings such as HMOs, group practices, ambulatory care settings, and nursing homes. This should lead to a model that could increase nonhospital based ambulatory training for all physicians, but especially those training to be primary care practitioners. It would also be desirable that the model encourage physicians to practice in underserved areas (urban and rural).

—*Manpower issues.* We are interested in the development of financial mechanisms to provide incentives for more physicians to practice in rural areas (especially obstetricians and primary care physicians such as family practitioners, internists, and pediatricians). We also are interested in studying the availability and effective use of pediatric and family nurse practitioner services under State Medicaid programs.

—*Measures of underutilization.* Given the mobility of the U.S. population, we need to reevaluate the relevancy of common measures of underservice, such as communities without a practicing physician. This reevaluation could examine such issues as the minimum population size needed to support a primary care practice, a general surgical practice, and very specialized practices. Examination of population density should address such issues as whether there are populations so sparse that no permanent medical professional can be supported. Definitions of fundamental primary health care needs may play a part in such studies. The work should define basic assumptions used to derive appropriate minimum/maximum physician rates per population.

• *Studies of new provider settings and delivery approaches.* We would like to conduct studies and demonstrations largely designed to increase the use of primary and preventive health services and thereby reduce the incidence of more serious conditions as well as long-term costs. Our interest includes settings and approaches that improve health delivery for specified populations such as the homeless, migrant workers, maternal and child health, adolescent males, and the disabled. Examples of these initiatives include:

—*More convenient service locations,* such as (a) school-based and school-related health clinics, (b) health care in public housing, and (c) mobile health units.

—*Service integration initiatives* designed to remove institutional barriers to the receipt of health care and to provide access to the full range of available services in order to maximize the benefit of these public programs, for example, (a) "one-stop shopping" initiatives that would provide a variety of support services at one location to increase the utilization of services by populations such as high-risk pregnant women, (b) outstationed Medicaid eligibility workers in Federally qualified health centers, homeless shelters, and schools, (c) new provider settings for EPSDT services, and (d) innovative settings for the delivery of family planning and prenatal care services for adolescents.

—*Other populations.* We are interested in studies that provide information about changes in the patient populations and service patterns of special populations, for example, patients with human immunodeficiency virus, auto-immune deficiency syndrome, and end-stage renal disease. We also are interested in studies and demonstrations that examine cost-effective alternative service modalities targeted toward specific populations.

—*Alternative service delivery models.* We are interested in demonstrations of alternative service delivery models that would promote more cost-effective and high-quality health care, for example:

+Geriatric care models that more effectively integrate and coordinate prevention, primary care, and chronic care for the elderly, including hospital-based geriatric care models.

+Alternative settings for transitional care that would reduce health care expenditures through earlier discharges from hospitals.

F. Subacute and Long-Term Care

Demographic and practice pattern changes continue to increase demands on subacute and long-term care delivery and financing mechanisms. Medicaid is the principal source of funding for long-term care in the United States. In FY 1994, Federal expenditures for long-term care under the Medicaid program are expected to exceed $30 billion, 34 percent of all Medicaid vendor payments. Medicare policy changes, in response to industry and congressional pressures, have led to rapidly rising payments for subacute care by skilled nursing facilities and home health agencies, and, as the elderly population continues to grow, further program benefit expansions may be approved by the Congress. Several major policy committees (for example, the President's Task Force on National Health Care Reform) have targeted long-term care as one component of the health services delivery sector requiring attention and potentially major reform in the next few years.

We wish to support this process through studies designed to better understand the trends and factors affecting the cost, accessibility, and quality of subacute and long-term care services under Medicare and Medicaid and to explore cost-effective delivery and financing mechanisms.

• *Innovative approaches to the delivery of long-term care.* We are interested in sponsoring research and demonstration efforts on innovative approaches to the cost-effective delivery of long-term care services. Such studies will examine methods of targeting

services to special populations in greatest need of services, as well as exploring whether new types of services or provider organizations should be developed to supplement those now covered under Medicare and Medicaid for these populations. We are also interested in innovative managed care models in both institutional and noninstitutional settings.

We are particularly interested in research and demonstration efforts that focus on the development of geriatric care models that more effectively integrate and coordinate prevention, primary care, and chronic care of the elderly. Special emphasis should be given to models that can be implemented in managed-care settings, such as HMOs contracting on a risk basis under the rules of section 1876 of the Social Security Act.

The relationship between long-term care services (including personal care and assistive devices) and housing is becoming increasingly important. For example, in caring for the frail elderly in noninstitutional settings, supported housing brings participants with needs for custodial care physically closer. Such a setting allows the frail elderly to preserve some independence in their living environment, while it facilitates economies of scale in providing for their care. Use of congregate care can be seen in the increasing number of alternative housing settings for the elderly, such as adult foster homes and assisted living facilities. Continuing care retirement communities likewise combine housing and long-term care services. Supported housing is also a key component in providing treatment and related services to individuals with chronic mental illness. We are interested in research and demonstration efforts that more fully explore this relationship. For example, how might the acute and chronic care benefit package of an integrated service delivery and financing model be delivered in the context of an assisted living facility?

• *Payment and benefit initiatives.* We are interested in sponsoring research and demonstration efforts that explore innovative approaches to integrate acute and post-acute care benefits so as to improve coordination of care. Such initiatives may take a general approach (for example, across DRGs) or may be limited to selected conditions.

We are also interested in payment alternatives to current cost-based payment for home health agency and rehabilitation facility services, including studies of the feasibility of case-mix systems for these settings.

We continue to be interested in studies that examine financial incentives for cost-effective, quality care in nursing homes, such as capitation for long-term care services.

• *Eligibility initiatives.* Studies are of interest that examine the feasibility and effect of using various disability criteria (for example, limitations in function, ability to perform work or other major activities, or the availability of family or other informal care) as the basis for eligibility determinations for long-term care benefits for both elderly and nonelderly populations.

The growth in Medicaid estate planning has highlighted Medicaid financial eligibility criteria as they relate to transfer of assets for purposes of becoming Medicaid eligible. We are interested in studies that examine the relationship between these transfers and overall increases in long-term care expenditures. We are also interested in studies of innovative State programs that address this issue, including studies of estate recovery programs.

• *Financing initiatives.* We are interested in studying developments in the private and public sectors that affect the provision and financing of long-term care services, such as further development of the private long-term care insurance market.

There have been discussions of financing approaches for long-term care such as universal long-term care insurance for all employed persons. For example, one approach might couple State-administered universal coverage for episodes of care, lasting 30 or more days, at a recognized long-term care facility with a State trust fund dedicated to long-term care financing and supported by employer/active employee premium payments. The coverage would extend to workers, retirees, spouses, and dependents. States would determine premium requirements, the employer/employee premium sharing parameters, the provider payment rates, and the arrangements for disbursing benefits. The trust fund might be managed by the State or by an insurance company or investment firm under State regulation.

Currently, funding of long-term care for both the elderly and nonelderly disabled is primarily through Medicaid, although private insurance, individual resources, and State and local dollars are also sources, depending on the target group. Long-term care financing for individuals with disabilities can be described as financing across age and disability groups, financed through these sources, rather than different financing mechanisms for different disability groups. However, some recent proposals have suggested that alternative financing strategies should be considered for different disability groups. For example, a study completed by HHS recommended that funding for individuals with mental retardation and related conditions be taken out of the Medicaid program and a new Federal program be created to fund a range of services for these individuals. These financing proposals are based on a recognition that different disability groups require different types of health and social support services, have developed distinct service systems, etc. We are interested in research that explores the strengths and weaknesses of the current system of long-term care financing, relative to financing systems developed for different disability groups.

• *Use of long-term care by nonelderly populations.* We wish to expand our research and demonstration agenda to focus on the service delivery and financing issues related to providing long-term care services to individuals with mental retardation, chronic mental illness, and other nonelderly disabled populations. In contrast to the considerable support for research and demonstration projects involving long-term care for the functionally disabled elderly, we have sponsored few projects to examine the role of the Medicare program or the use of flexibilities under Medicaid optional services and waivers to meet the rapidly changing environment of long-term care for the non-aged disabled. The following are examples of the types of issues that are of interest to us:

—*Children with disabilities.* We are interested in studies that examine the effect of the recent Zebley decision on disability determinations for children, and subsequent changes in eligibility for and use of long-term care services.

Also, research on the extent to which children with disabilities have public or private health insurance coverage, and the impact of such coverage on Medicaid program expenditures and on access to care, is of interest.

—*Mental retardation and related conditions.* We are interested in answers to the following questions:

(a) What is the impact of standards for licensing service providers and surveying quality of community-based services on the quality of care delivered?

(b) What factors influence the costs of intermediate care facilities for the mentally retarded?

(c) What is the relationship between cost and effectiveness?

(d) What assessments can be done of the cost-effectiveness and quality of

community-based care for individuals with mental retardation under Medicaid, including the Medicaid 2176 waiver program, the Community Supported Living Arrangements program, and other State optional services?

—*Chronically mentally ill.* We would like information on the characteristics of long-term care service use among State Medicaid programs and the changing patterns of use over time.

—*Working-age disabled.* We would like to know: (a) What is the impact of current public and private insurance limitations in meeting the acute rehabilitative and long-term needs of this population, and (b) to what extent do various subpopulations of the non-aged disabled (for example, working-age adults and individuals with selected types of disabilities) have public or private health insurance coverage, and what is the impact of this coverage on Medicare and Medicaid program expenditures and access to care? We are interested in studies that focus on the new specialized health service delivery programs and innovative payment approaches designed to meet the rapidly growing demand for specialized services, such as rehabilitation services, maintenance services, assistive technology, durable medical equipment, social assistance services, and environmental modifications.

Studies of work transitions for this population continue to be of interest to us. Included are assessments of Medicaid's impact in facilitating section 1619 transitional work-programs for supplemental security income adult disabled persons and assessments of an extended period of Medicare coverage for social security disability insurance beneficiaries who return to work.

We are particularly interested in studies that include research emphasizing secondary analyses that document the implications of demographic trends on the financing, delivery, and quality of long-term care services for these groups. We are also interested in studies that examine and attempt to account for wide variation among States in the use of institutional, relative to community-based, services.

• *Dynamics of disability and service use.* We would like to initiate studies to understand the dynamics of chronic physical and cognitive disability and acute, subacute, and long-term care service use and the implications for future demand for long-term care under Medicare and Medicaid. Studies are of interest that link and analyze data from multiple data bases such as the Medicare Current Beneficiary Survey, National Long-term Care Survey, the Survey of Income and Program Participation, the National Medical Expenditure Survey, and the National Health Interview Survey with our administrative data to examine, using both cross-sectional and longitudinal analyses, characteristics of the disabled and long-term care service.

• *Access issues.* We are interested in studies assessing problems of access to long-term care for certain subpopulations of the disabled, such as beneficiaries in inner city areas or rural areas.

• *Effects of program changes.* We would like to study the effects of major program changes on the cost, accessibility, and quality of subacute and long-term care services under Medicare and Medicaid. Examples of possible new studies in this area are those that examine the following:

—Patient-level cost, utilization, transitions, substitution, and outcomes of Medicare-supported rehabilitation hospital units, skilled nursing facility, and home health services.

—The cost-effectiveness of services experiencing rapid expansion, such as Medicare and Medicaid financed home care and case management services.

—Service utilization and expenditures of Medicare program and policy changes related to home health and nursing facility coverage.

III. Purpose and Content of Cooperative Agreements and Grants

A. General Considerations

The cooperative agreements and grants we award are intended to assist in the resolution of major health financing issues or in developing new methods for administration of our programs. Our cooperative agreement and grant program focuses primarily on analyses, experiments, pilot projects, and demonstrations that provide information useful for the Medicare and Medicaid programs. Applications that fit one of the priority areas will be considered to have been solicited.

B. Cooperative Agreements and Grants

All cooperative agreements will include an explicit statement of the nature, character, and intent of anticipated Federal programmatic involvement to ensure that the responsibilities of both parties are understood. Each cooperative agreement will incorporate the requirements of 45 CFR part 74 or part 92 or both, as applicable, among its terms and conditions. Cooperative agreements will not be awarded to a State Medicaid agency for section 1115 (of the Social Security Act (the Act)) projects in which only waivers of Federal Medicaid State plan requirements under section 1902 of the Act or costs not otherwise matchable under section 1903 of the Act are approved to carry out a demonstration. The instrument to be used for this type of award may be a grant (without discretionary funds) of waivers under section 1115(a)(1) and costs authorized under section 1115(a)(2) of the Act. Cooperative agreements may be awarded for section 1115 projects with discretionary funds, even if waivers under section 1115(a)(1) and costs under section 1115(a)(2) also are involved. In these cases, the cooperative agreement conditions will apply to the entire operation and management of the project. Cooperative agreements may be used for projects awarded under all other authorities listed in section IV.A. (Authorities) of this notice.

We may suspend or terminate any cooperative agreement or grant, in whole or in part, at any time before the date of expiration, whenever we determine that the awardee has materially failed to comply with the terms of the cooperative agreement or grant. We will promptly notify the awardee in writing of the determination and the reasons for, and the effective date of, the suspension or termination. In addition, we reserve the right to withdraw waivers at any time if we determine that continuing the waivers would no longer be in the public interest. If a waiver is withdrawn, we will be liable only for normal closeout costs.

C. Waivers

1. Demonstrations Requiring Waiver of Medicaid Rules

Researchers who wish to conduct demonstrations that would require that Medicaid rules be waived must contact the appropriate State Medicaid agency. Demonstration proposals involving the Medicaid program must be submitted by the single State agency responsible for administration of the Medicaid program in that State. Organizations that wish to ask for Medicaid waivers are strongly encouraged to coordinate with researchers or research firms in order to ensure that the experimental design and evaluation protocol are of the highest quality.

2. Section 1115(a) Projects

Under section 1115(a)(1) of the Act, compliance with statutory Medicaid State plan requirements (section 1902 of the Act) may be waived in order to enable a State Medicaid agency to carry out a demonstration project that will further the general objectives of the Medicaid program. Under section 1115(a)(2) of the Act, costs of a section 1115(a) project that otherwise would not properly be included as expenditures under the State plan may be regarded as expenditures and thus be subject to Federal financial participation (FFP). Unless they are specifically waived, all requirements of the Act, the Code of Federal Regulations, and other issuances that pertain to the title XIX program apply to a project approved under section 1115(a). If a State Medicaid agency applies for a section 1115(a) project, it should give special attention to the preparation of the budget. The agency must provide estimates of the costs or savings attributable to the demonstration project contrasted with the normal Federal program costs. That is, the agency must furnish the estimated yearly costs, before waivers and after waivers, for both service costs and administrative costs. These budgets are substantially more extensive than the budget for other applications.

3. Other Waivers

Waivers of the requirements of title XVIII of the Act and of corresponding HCFA regulations may be requested for projects conducted under section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603), as amended, and section 402 of the Social Security Amendments of 1967 (Pub. L. 90–248), as amended. (See 42 U.S.C. 1395b–1.) The waivers requested must relate to an experimental or demonstration project that involves changes in the benefit package or method of payment. In applying for these waivers or changes in payment or Federal financial participation, the applicant must provide sufficient budgeting information to permit estimates of the likely costs or savings of the project compared to the normal Federal program costs. That is, the application must furnish the estimated yearly costs, before waivers and after waivers, for both program and administrative costs.

4. Methodology for Estimated Gross Costs of Projects Involving Waivers

We have a methodology to be used in estimating gross and net waiver costs. A description of this methodology may be obtained by contacting Carl Hackerman at the address given at the beginning of this notice.

This methodology is subject to change, and applicants are therefore instructed to ensure they are using the current methodology.

IV. Cooperative Agreements and Grants—General Information

A. Authorities

Our authority for making these awards is based on the following:

1. The Social Security Act, section 1110, 42 U.S.C. 1310, concerning Medicaid cooperative research or demonstration projects, and section 1115(a), 42 U.S.C. 1315(a), concerning Medicaid demonstration projects.

2. The Social Security Act, section 1875, 42 U.S.C. 1395ll, concerning Medicare studies and recommendations for cooperative agreements only, and section 1881(f), 42 U.S.C. 1395rr(f), concerning end-stage renal disease experiments and pilot projects.

3. Section 402 of the Social Security Amendments of 1967 (Public Law 90–248), as amended, 42 U.S.C. 1395b–1, concerning Medicare and Medicaid experiments and demonstration projects.

4. Section 222(a) of the Social Security Amendments of 1972 (Public Law 92–603), as amended, 42 U.S.C. 1395b–1 (note), concerning experiments and demonstration projects pertaining to prospectively-based payment systems.

5. The Social Security Act, section 1881(c)(7), 42 U.S.C. 1395rr(c)(7), concerning the national end-stage renal disease registry.

B. Regulations

General policies and procedures that govern the administration of all HHS cooperative agreements and grants are located in title 45 of the CFR, parts 74 and 92. Applicants are urged to review the requirements contained in those regulations.

C. Duration of Funding

We fund projects for a period of 1 year at a time and may continue funding on a noncompetitive basis, generally for up to 3 years, if we made the original award as a multiple year project. Continuation funding is contingent on the availability of future year funds, the applicant's ability to meet prior year project objectives, and whether continued funding is in the best interest of the Government. We treat applicants that seek to continue a project for a longer period of time than that stated in the original awards as applicants for new projects. Thus, they must compete for available funds, and we will review these applications competitively along with all other new applications. Under this announcement, we do not intend to award grants or cooperative agreements with performance periods longer than 3 years.

Applications received for projects of more than 3 years duration will be considered, but they will be carefully analyzed to determine if the period of performance can be shortened by curtailing some of the activities. Under rare circumstances, and if the Government determines that the time period cannot be reduced, awards of more than 3 years duration are possible.

V. Application Procedures

A. Priority Area Designation

Each application should be limited to one of the priority areas described earlier. The application must include in the project title block the priority area title to which the applicant is responding. If we determine a different priority area is a more appropriate area for consideration of a proposal, we reserve the right to change priority area designation without notifying the applicant. (An application being submitted for an unsolicited area should identify the program area from among those listed earlier into which the application most clearly fits.)

B. Criteria for Screening and Reviewing Applications

1. Screening Requirements

In order for an application to be in conformance, it must meet all of the requirements listed below. Applications that do not meet these screening requirements will not be considered for funding/approval by the review panels.

a. Length. The applicant should provide a brief (1 or 2 paragraph) abstract summarizing the objectives of the proposal. A summary, not to exceed 5 pages, of the proposed project must be included. This summary should discuss the project objectives, hypotheses to be examined, data to be used and their source(s), model type(s) and structure(s) to be used in analyses, resources available to conduct the project, and amount and duration of support requested. The narrative portion of the application should be typewritten, single-sided, and should not exceed 50 (for a research proposal) or 80 (for a demonstration proposal) double-spaced pages, exclusive of resumes, forms, and so forth. Applications should be neither unduly elaborative nor contain voluminous or unnecessary documentation.

b. Number of copies. An original signed application and 14 copies must be submitted. Medicaid State agencies are required to submit an original signed application and two copies. Additional copies—up to a maximum of 10—would assist in the processing of the application.

c. HCFA priorities. Those projects that specifically address a priority area/topic stated in this announcement generally will receive preference. Applications determined by HCFA or the review panel to be unrelated to our announced priorities will not generally be considered for funding.

2. Evaluation Criteria

Applications that meet the screening criteria will be reviewed by a technical review panel composed of at least three individuals. Reviewers will score the applications basing their scoring decisions and approval recommendations on the following criteria. (Relative weights are shown in parentheses.)

a. Project methodology/design. (40 points) The application describes specific plans for conducting the project in terms of the tasks to be performed. It includes relevant information about: Hypotheses to be tested (if applicable); concise and clear statement of goals and measurable/achievable objectives; what the project will do and how it relates to similar work done in the area; how the project will be conducted; data to be collected (including specification of data sources); plan for data analysis; and milestones/phases in the progress of the project.

Specifically, the proposal should contain the following:

(i) A clear, quantifiable statement of the project goals and objectives.

(ii) An explicit description of the research design, including the questions to be addressed and the methods and data to be used. The methodology must be well defined and scientifically valid.

(iii) If the project is a demonstration proposal, the applicant should include separate sections on both the research design and the evaluation design. The research design section should include a detailed description of the payment methodology and other programmatic changes. The evaluation section should provide an indication of the applicant's understanding of the evaluation issues and the various approaches to them. Should an award be made, the applicant may be required to collect data in a standardized manner to facilitate evaluation efforts. We will have the option of determining whether the applicant or HCFA will be responsible for the evaluation.

(iv) Demonstrations must contain a phase-down/phase-out plan that:

(A) Ensures that Medicare and Medicaid beneficiaries, as well as any other project participants, are phased out of any special programs that were initiated and exist as payable or covered health services only under the auspices of the project, or ensures that plans are in effect to provide other care for the project participants by the date the project is scheduled to end; and

(B) Ensures that any new payment methods initiated by the project will cease to apply at the end of the project (that is, the project in and of itself cannot commit the Medicare or Medicaid programs to an indefinite use of the payment methodology beyond the end of the project).

(v) The tasks and milestones must be clearly described and must include a schedule of reports to be submitted to HCFA (Progress and Financial Reports as required by 45 CFR parts 74 and 92).

(vi) The application must contain information specifying the availability of the data to be used, if data are to be collected. The discussion must describe the nature of the data sought, the sample design and size controls, comparisons of any data, and the problems that might be encountered in collection. Data that are collected under a HCFA cooperative agreement or grant must be available to HCFA or its agents. The applicant, however, must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA cooperative agreement or grant. The application must contain detailed plans to protect the confidentiality of all information that identifies individuals under the project. The plan must specify that this information is confidential, that it may not be disclosed directly or indirectly except for purposes directly connected with the conduct of the project, and that in all cases where disclosure takes place for any purpose not directly connected with the conduct of the project, the informed written consent of the individual must be obtained.

(vii) Projects that require waivers (for example those under section 1115(a) of the Act, section 222(a) of Public Law 92–603, as amended, and section 402(b) of Public Law 90–248, as amended) must define the services, list the waivers, discuss the implications if these waivers are granted, and state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project. If the project involves both Medicare and Medicaid waivers, a request for Medicaid waivers from the State agency administering the Medicaid program must be included with the application. Applicants should contact HCFA for further information if questions arise in these cases.

b. Knowledge/experience/capability in area. (20 points) The application describes the applicant's prior experience in the area or in related areas. The principal investigator and other key staff are qualified and possess the experience in this or related areas and the variety of skills required to produce final results that are readily comprehensible and usable. The application should provide evidence of understanding and knowledge of prior and ongoing work in the area. Specific information also must be provided concerning how the personnel are to be organized in the project, to whom they will report, and how they will be used to accomplish specific objectives or portions of the project.

c. Level of effort. (20 points) The resources that will be needed to conduct the project are specified, including personnel, time, budget, and facilities. The staffing pattern clearly links responsibilities/levels of efforts to project tasks. The project's costs are reasonable in view of the anticipated results. Any collaborative effort (including subcontracts) with other organizations is clearly identified and written assurances included. A description by category (personnel, travel, consultants, and so forth) of the total of the Federal funds required is included. Funds are specified for each budget period. Specifically, the application should contain the following:

(i) Information specifying the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

(ii) The budget must be developed in detail with justifications and explanations for the amount requested. The estimated costs must be reasonable considering the anticipated results.

(iii) Applicants are expected to contribute towards the project costs. Generally 5 percent of the total costs is considered acceptable. No demonstration project will be awarded that covers 100 percent of the project's costs. The budget may not include costs for construction or remodeling or for project activities that take place before the applicant has received official notification of our approval of the project.

(iv) For demonstration projects involving waivers, budget estimates for administrative and service costs must be prepared in accordance with the prescribed methodology. Such applications also must contain

estimates, prepared in accordance with the prescribed methodology in this announcement, of the amount of program and administrative expenditures that will occur under the waivers and a comparison of these expenditures to those that are projected to occur in the program in the absence of the waivers.

(v) Each application must include a statement that, if the project is awarded, the awardee will furnish quarterly reports of expenditures for administrative and program costs (and, for demonstration projects involving waivers, for service costs) for the project within the approved budget in the format to be specified under special terms and conditions in the cooperative agreement or grant.

d. Project objectives and expected outcomes. (20 points) How closely do the project objectives fit those of the solicitation? What is the intrinsic merit of the research/study? The need for the project is discussed in terms of the importance of the issues to be addressed and the particular project proposed, as well as how the proposed project builds on and expands previous work in the area. The application should discuss plans for utilization of the project's results, for the potential usefulness of the anticipated results, and expected benefits to HCFA and other target groups.

VI. Other Considerations

A. Selection Criteria for Funding New Projects

Although the recommendations of the technical review panels are a major factor in making the decision about an application, scores and recommendations are not the only factors. The compatibility of applications to our priorities as judged by HCFA Senior Staff, the availability of HCFA resources, and the comments of other HCFA and Department staff are considered in making funding decisions.

B. Other Requirements

1. This program is not covered by Executive Order 12372, "Intergovernmental Review of Federal Programs."

2. Applications approved by us for funding will contain a specific set of special terms and conditions that are applicable upon the applicant's acceptance of the award.

These include the following:

a. The HCFA project officer will be notified before formal presentation of any report or statistical or analytical material based on information obtained through this cooperative agreement. Formal presentation includes papers, articles, professional publications, speeches and testimony. In the course of this research, whenever the principal investigator determines that a significant new finding has been developed, he or she will immediately communicate it to the HCFA project officer before formal dissemination to the general public. As required by section 511 of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1990 (Pub. L. 101–166), the awardee, whenever issuing statements, press releases, requests for proposals, bid solicitations, and other documents (including reports and published articles) concerning this project or findings and results from this project, must clearly state (1) the percentage of the total cost of the project financed with Federal money, (2) the dollar amount of Federal funds for the project, and (3) the percentage and dollar amount of the total costs of the project financed by nongovernmental sources. The final report may not be released or published without permission from the HCFA project officer within the first 4 months following receipt of the report by the HCFA project officer. The final report will contain a disclaimer that the opinions expressed are those of the awardee and do not necessarily reflect the opinions of HCFA.

b. At any phase of the project, including the project's conclusion, the awardee, if requested by us, must submit the analytic data file(s) with appropriate documentation, representing the data developed/used in end product analyses generated under the award. The analytic file(s) may include primary data collected, acquired, or generated under the award and/or data furnished by us. The content, format, documentation, and schedule for production of the data will be agreed upon by the principal investigator and the HCFA project officer. The negotiated format(s) could include both file(s) that would be limited to HCFA internal use and file(s) that HCFA could make available to the general public.

c. At any phase of the project, including at the project's conclusion, the awardee, if so requested by us, must deliver to us any materials, systems, or other items developed, refined, or enhanced in the course of the project or under the award. The awardee agrees that HCFA will have royalty-free, nonexclusive, and irrevocable rights to reproduce, publish, or otherwise use and to authorize others to use the items for Federal Government purposes.

d. Any additional specific project requirements.

3. When a project is completed, the awardee must submit a final report. As a minimum, the report must contain the following:

a. Identification of the project director, principal investigator, cooperative agreement or grant number, awardee, and title of the project.

b. Acknowledgment of the support received from us and a disclaimer to the effect that the findings do not necessarily reflect the opinions or policies of HCFA.

c. An executive summary (one or two pages) that provides an overview of the project and highlights significant findings.

d. A description of the initial hypotheses, objectives, and scope of the project.

e. An explanation of the study methodology.

f. A discussion of significant findings and demonstration or research results (and the implications of these results, if any). In the final report, and on a semiannual basis during the course of the project, the awardee must provide a list and copies of all papers presented and of all articles, reports, and other types of publications that result from the project, for inclusion in a subject bibliography system maintained by ORD, HCFA. It is further requested that the awardee continue to provide the updated information for 2 years after the project's completion. The ORD "Author's Guidelines for Cooperative Agreements, Grants and Contracts" should be used in preparing the final report. This document is available on request from the ORD Publications Coordinator, room 1–C–9 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, (410) 966–6885.

C. Multiple Applications

The applicant must indicate when the same or a similar application is submitted to another HHS agency, for example, the Social Security Administration or one of the Public Health Service programs.

D. Cooperative Agreement and Grant Policies

Projects are funded through a competitive process and chosen from among the applications submitted in response to this announcement. In the case of demonstration projects, all awardees are expected to share directly in the costs of the project. Normally, this sharing must be at least 5 percent

of the total project costs. For section 1115(a) of the Act projects, the amount that the single State agency will be expected to provide generally must be at least 5 percent of the special Federal project funds.

If, following review of a proposed activity, we determine that a research or demonstration project presents a danger to the physical or mental well-being of a participant of the project, Federal funds will not be made available for that project without the written informed consent of each participant. Other policies, including responsibilities, awarding and payment procedures, special provisions, and assurances, may be found in 45 CFR parts 74 and 92.

It is a national policy to place a fair share of purchases with small, minority-owned, and woman-owned business firms. HHS is strongly committed to the objectives of this policy and encourages all recipients of its cooperative agreements and grants to take affirmative steps to ensure such fairness; in particular, recipients should (1) place small, minority-owned, and woman-owned business firms on bidders' mailing lists, (2) solicit these firms whenever they are potential sources of supplies, equipment, construction, or services, (3) where feasible, divide total requirements into smaller needs and set delivery schedules that will encourage participation by these firms, and (4) use the assistance of the Minority Business Development Agency of the Department of Commerce, the Office of Small and Disadvantaged Business Utilization, HHS, and similar available State and local government agencies.

VII. Review of Applications

An independent review will be conducted by a panel of not less than three experts. The panel will include experts from both HHS and the private sector. There will be at least one independent review panel for each priority area. An ORD chairperson will coordinate the panel's review but will not vote. The chairperson will also prepare the panelists' recommendations (summary statement) to the Director, ORD. The panelists' recommendations will contain numerical ratings (based on the specified rating criteria), ranking of all applications, and a written assessment of each application. These will be summarized in a ranking and approval list and in a matrix that will be prepared for each application. When the panelists determine that an application is unrelated to the announced funding priorities, numerical ratings will generally not be assigned to the application, and the application will generally not be considered for funding. Applicants may request in writing a copy of the summary statement of the review of their application after they have received from HCFA the letter announcing approval or disapproval. Summary statements will be made available subject to the applicable limitations of the Freedom of Information Act (5 U.S.C. 552), the Federal Advisory Committee Act (5 U.S.C. App. 2), the Privacy Act (5 U.S.C. 552a), and 45 CFR parts 5, 5b, and 11.

VIII. Closing Date and Time

In order to be considered under this announcement, for the annual funding cycles for FYs 1994, 1995, and 1996, a cooperative agreement and grant application, as described in sections I and III of this notice, must be submitted to HCFA by March 24, 1994, by February 7, 1995, or by February 6, 1996, respectively. Submissions by facsimile (FAX) transmission will not be accepted. Applications mailed through the U.S. Postal Service or a commercial delivery service will be "on time" if they are received on or before the closing date, or sent on or before the closing date and received in time for submission to the independent review group. Applicants are cautioned to request a legible U.S. Postal Service postmark or to obtain a legibly dated receipt from the commercial carrier or the U.S. Postal Service. Privately metered postmarks will not be acceptable as proof of timely mailing. Applications that do not meet the above criteria will be considered late applications. Those submitting late applications will be notified that the applications were not considered in the current competition.

Authority: Sections 1110, 1115(a), 1875, 1881(c)(7) and 1881(f) of the Social Security Act (42 U.S.C. 1310, 1315(a) 1395ll, 1395rr(c)(7) and 1395rr(f)); section 402 of the Social Security Amendments of 1967, as amended (42 U.S.C. 1395b-1); section 222(a) of the Social Security Amendments of 1972, as amended (42 U.S.C. 1395–1 (note)).

(Catalog of Federal Domestic Assistance Program No. 93.779, Health Financing Research, Demonstrations and Experiments).

Editorial Note: This document was received by the Office of the Federal Register on January 13, 1994.

Dated: July 20, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 94–851 Filed 1–12–94; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3636; FR–3501–N–03]

Notice of Fund Availability for HOPE for Public and Indian Housing Homeownership Program (HOPE 1); Amendment to 1993 NOFA

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of amendment.

SUMMARY: This NOFA Amendment decreases the amount of funds made available for implementation grants for the HOPE for Public and Indian Housing Homeownership Program (HOPE 1) due to a Congressional rescission of funds.

FOR FURTHER INFORMATION CONTACT: Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410: Gary Van Buskirk, Office of Resident Initiatives, room 4112, telephone (202) 708–4233. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY, 1–800–877–8339, or 202–708–9300. (Telephone numbers, other than "800" TDD numbers, are not toll-free.)

SUPPLEMENTARY INFORMATION: On August 2, 1993, the Department published a NOFA announcing the availability of $182,047,160 in funding for implementation grants for the HOPE for Public and Indian Housing Homeownership Program (HOPE 1) (58 FR 41126). On September 1, 1993 the Department published an amendment to the NOFA increasing the funding being made available by $24,000,000 from $182,047,160 to $206,047,160 due to a reprogramming action (58 FR 46209). The funds were appropriated by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriation Acts for fiscal year 1992 (Pub. L. 102–139, approved October 28, 1991) and fiscal year 1993 (Pub. L. 102–389, approved October 6, 1992). In its Fiscal Year 1994 appropriations bill for the Department of Housing and Urban Development, Congress rescinded $45,000,000 from the amounts remaining available for the HOPE for Public and Indian Housing Homeownership program under the Department's fiscal year 1992 appropriation (Pub. L. 102–139) and $130,000,000 from the amounts

remaining available under the Department's fiscal year 1993 appropriation (Pub. L. 102–389) for a total rescission of $175,000,000 in the amount of funds made available under the previously published NOFA and amendment. Accordingly, the HOPE 1 NOFA published on August 2, 1993 and amended on September 1, 1993 is further amended to decrease the amount available from $206,047,160 to $31,047,160.

Dated: January 6, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–845 Filed 1–12–94; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Konopacky Environmental, Meridian, ID, PRT–785643.

The applicant requests a permit to take (collect) Utah valvata snail (*Valvata utahensis*), Banbury Springs limpet (*Lanx* spp.), Idaho Spring snail (*Pyrgulopsis idahoensis*), Bliss Rapids snails (Undescribed hydrobiid genus & species), and Snake River Physa snail (*Physa natricina*) to determine their presence or absence in the Snake River Drainage, Idaho.

Applicant: San Diego Zoo, San Diego, CA, PRT–785441.

The applicant requests a permit to import 2 female captive-bred Persian fallow deer (*Dama dama mesopotamica*) from the Opel Zoo, Kronberg, Germany, for breeding purposes to enhance the survival of the species.

Applicant: Archie Carr Center for Sea Turtle Research, Gainesville, FL, PRT–724540.

The applicant requests a permit to import blood and tissue samples of the following sea turtle species for studies on nutrition, demography, and growth rates: green sea turtle (*Chelonia mydas*), Pacific green sea turtle (*C. m. agassizi*), loggerhead sea turtle (*Caretta caretta*), hawksbill sea turtle (*Eretmochelys imbricata*), olive (Pacific) ridley sea turtle (*Lepidochelys olivacea*), Kemps' (Atlantic) ridley sea turtle (*Lepidochelys kempii*), and leatherback sea turtle (*Dermochelys coriacea*). Samples will be collected throughout the turtles' range and the live turtles will be released at the site of capture. No animals will be held in captivity.

Applicant: Jardin Zoologica de Puerto Rico, Mayaguez, PR, PRT–784619.

The applicant requests a permit to export one male tiger (*Panthera tigris*) to Parque Zoologico Nacional, Dominican Republic, for breeding purposes to enhance the survival of the species.

Applicant: E.T. Trader, Withams, VA, PRT–785361.

The applicant requests a permit to purchase in interstate commerce 2 pairs of captive-bred Nene geese (*Branta sandvicensis*) for breeding purposes to enhance the survival of the species.

Applicant: National Wildlife Health Research Center, Madison, WI, PRT–783742.

The applicant requests a permit to import sera samples from captive-hatched crane species: white-naped crane (*Grus vipio*), manchurian crane (*Grus japonensis*) and siberian white crane (*Grus leucogeranus*) for scientific research on inclusion body disease.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: January 7, 1994.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–814 Filed 1–12–94; 8:45 am]

BILLING CODE 4310–55–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32426]

Laurinburg Oil Company—Merger Exemption—Laurinburg and Southern Railroad Company, et al.

Laurinburg and Southern Railroad Company (LSR),[1] Robeson County Railroad Corporation (RCR),[2] Yadkin Valley Railroad Company (YVR), and Nash County Railroad Corporation (NCRC), nonconnecting rail common carriers within the State of North Carolina, have filed a notice of exemption under 49 CFR 1180.2(d)(3) to merge with and into Laurinburg Oil Company (LOC), a North Carolina corporation. The transaction was to be consummated December 31, 1993. LSR, RCR, YVR, and NCRC are jointly owned with LOC.

The proposed transaction is within a corporate family specifically exempted under section 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The transaction's purpose is to ensure fair and equitable treatment of shareholders, simplify administrative and financial matters, and eliminate unnecessary legal entities and related costs.

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed by any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Fritz R. Kahn, Suite 120, 1101 30th Street, NW., Washington, DC 20007.

Decided: January 6, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–855 Filed 1–12–94; 8:45 am]

BILLING CODE 7035–01–P

[1] LSR controls two inactive railroad carriers: Saltville Railroad Corporation and Franklin County Railroad Corporation. The shares of stock in the two companies will be assigned to Laurinburg Oil Company as a contribution to capital.

[2] A division of RCR operates under the name Red Springs and Northern Railroad Company.

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and committee code: Special Emphasis Panel in Advanced Scientific Computing (1185).

Date and time: February 4, 1994; 8:30 a.m. to 5 p.m.

Place: Room 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of meeting: Closed.

Contact person: Dr. Michael McGrath, Program Director, Centers Program, National Science Foundation, 4201 Wilson Boulevard, room 1122, Arlington, VA 22230. Telephone: (703) 306–1970.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate postdoctoral research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–832 Filed 1–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following two meetings:

Date & time: January 31–February 2, 1994; 8:30 a.m. to 5 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Contact person: Dr. James R. Estes, Division of Environmental Biology, room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1483.

Agenda: To review and evaluate Survey and Inventory research proposals as part of the selection process for awards.

Date & time: February 2–4, 1994; 8:30 a.m. to 5 p.m.

Place: Room 330, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Contact person: Dr. Richard F. Dame, Division of Environmental Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1479.

Agenda: To review and evaluate Postdoctoral and Midcareer Research Fellowship proposals as part of the selection process for awards.

Type of meetings: Closed.

Purpose of meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–833 Filed 1–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and committee code: Special Emphasis Panel in Chemistry (1191).

Date and time: February 17–18, 1994; 8 a.m. to 5 p.m.

Place: Rooms 310, 310.2, 340, 360, 360.2, and 365, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of meeting: Closed.

Contact person: Dr. Seymour J. Lapporte, National Science Foundation, Division of Chemistry, Office of Special Projects, 4201 Wilson Boulevard, room 1050, Arlington, VA 22230. Telephone (703) 306–1847.

Purpose of meeting: To provide advice and recommendations concerning applications submitted to NSF for financial support.

Agenda: To review and evaluate applications for Postdoctoral Fellowships in Chemistry as part of the selection process for awards.

Reason for closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–834 Filed 1–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and committee code: Special Emphasis Panel in Mechanical and Structural Systems (1205).

Date and time: February 3–4, 1994; 8:30 a.m. to 5 p.m.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of meeting: Closed.

Contact person: Dr. John B. Scalzi, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1361.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–835 Filed 1–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Mechanical and Structural Systems.

Date and time: February 7–8, 1994; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Conference Rooms 380 and 390.

Contact person: Dr. Devendra P. Garg, Program Director, Dynamic Systems and Control, Telephone: (703) 306–1361.

Type of meeting: Closed.

Purpose of meeting: To provide advice and recommendations concerning unsolicited proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Division of Mechanical and Structural Systems as part of the selection process for awards.

Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including

technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–836 Filed 1–12–94; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Postponement of Meeting

A meeting of the 61st Advisory Committee on Nuclear Waste (ACNW) scheduled to be held on Wednesday and Thursday, January 19 and 20, 1994, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland has been postponed until February 23 and 24, 1994. Notice of the meeting was published in the **Federal Register** on Thursday, December 23, 1993 (58 FR 68180).

For further information contact: Mr. Richard Major, Chief, Nuclear Waste Branch, (telephone: 301/492–8109) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: January 7, 1994.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 94–839 Filed 1–12–94; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Advanced Boiling Water Reactors; Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactors will hold a meeting on January 25 and 26, 1994, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, January 25, 1994—8:30 a.m. until the conclusion of business
Wednesday, January 26, 1994—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the NRC staff's Final Safety Evaluation Report for the General Electric Nuclear Energy (GENE) Advanced Boiling Water Reactor (ABWR) design and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review. Representatives of GENE and its consultants will participate, as appropriate.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 7, 1994.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 94–840 Filed 1–12–94; 8:45 am]

BILLING CODE 7590-01-M

[General License 10 CFR 150.20 EA 92–102]

Modified Confirmatory Order; American Testing and Inspection, Inc. Country Club Hills, IL

I

American Testing and Inspection, Inc. (ATI), was formerly holder or State of Illinois Byproduct Material License No. 01085–01 (License) issued on January 8, 1988. The License authorized the possession and use of sealed sources of iridium–192 in industrial radiographic exposure devices to perform licensed activities within the State of Illinois. Pursuant to 10 CFR 150.20 and its License, ATI was authorized to possess and use licensed byproduct materials to perform industrial radiography in non-Agreement States. ATI's License expired on August 31, 1992. The License was transferred to McNDT Leasing, Inc. and amended in its entirety in accordance with letters dated August 31, 1992 and September 3, 1992.

II

An inspection by the Nuclear Regulatory Commission (NRC) was conducted on February 12 through March 27, 1992, of ATI's activities that were conducted in the States of Indiana and Michigan (non-Agreement States). Six violations were identified, including (1) the failure to file NRC Form 241 on 174 days in 1991 when performing radiography in non-Agreement States in accordance with 10 CFR 150.20(b)(1); (2) performing radiography in non-Agreement States on more than 180 days within calendar year 1991 in violation of 10 CFR 150.20(b)(3); and (3) the failure of ATI to have a qualified independent organization observe ATI's radiographers or conduct an audit of ATI's radiation safety program in violation of Section IV.C. of an Order Modifying License that was issued by the NRC to ATI on November 30, 1989.

The NRC issued Enforcement Action (EA) 92–102 against ATI consisting of a Notice of Violation and Proposed Imposition of Civil Penalty-$15,000 (Notice) dated October 7, 1992. Mr. Ronald Preston, formerly President, ATI, responded on November 30, 1992, to the Notice admitting the violations, but requesting that the proposed civil penalty be vacated since ATI had gone into Chapter 7 bankruptcy and ceased industrial radiography operations. The Notice did not preclude Mr. Preston from performing radiography under another licensee's Agreement State license and, pursuant to 10 CFR 150.20, from engaging in licensed activities in NRC jurisdiction.

A Confirmatory Order was issued on March 24, 1993, which constituted settlement of the civil penalty proposed in the Notice. In that Order, the civil penalty was withdrawn on the basis of Mr. Preston's inability to pay the $15,000 civil penalty and subsequent proposal that for a period of three years, he, ATI, or a successor entity wherein Mr. Preston is an authorized user, radiographer, radiographer's assistant, Radiation Safety Officer, an Assistant Radiation Safety Officer, an officer, or a controlling stockholder, would not apply to the NRC for a new license, nor would Mr. Preston, ATI, or a successor entity, as described above, engage in

licensed activities within NRC jurisdiction for that same period of time.

IV

The Confirmatory Order was executed on March 24, 1993. In August and September 1993, Mr. Preston indicated a financial need to engage in licensed activities; however, he remained unable to pay the $15,000 civil penalty. Specifically, on September 23, 1993, Mr. Preston contacted Ms. Patricia A. Santiago of the NRC Office of Enforcement, and indicated he was unable to obtain a loan or funds and requested that he be permitted to work as an assistant radiographer. In light of the fact that Mr. Preston has recognized the violations that led to the previous enforcement action, and Mr. Preston's inability to pay the $15,000 civil penalty and need to earn a livelihood, the NRC has reconsidered its previous order, and is satisfied that with the protections afforded by the supervision provided to an assistant radiographer, the Confirmatory Order may be modified as set forth below consistent with protection of the public health and safety. The NRC is willing to modify the Confirmatory Order to permit Mr. Preston to work as an assistant radiographer, with the addition of certain notice requirements.

V

Accordingly, pursuant to sections 81, 161b, 161i, 186, and 234 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 2.205, and 10 CFR parts 30, 34, and 150, it is hereby ordered, stipulated and agreed between the NRC and Mr. Preston as follows:

1. Except as provided in paragraph 4 below, the NRC withdraws the civil penalty of $15,000 as proposed in the Notice dated October 7, 1992 (EA 92–102);

2. Until March 23, 1996, Mr. Preston, ATI, or any successor entity, wherein Mr. Preston is an authorized user, radiographer, Radiation Safety Officer, an Assistant Radiation Safety Officer, an officer, or a controlling stockholder, will not apply to the NRC for a new license.

3. From the date Mr. Preston signs this Modified Confirmatory Order until March 23, 1996, Mr. Preston may engage in licensed activities within NRC jurisdiction only as an assistant radiographer. He may not act as a radiographer, supervisor, or Radiation Safety Officer within NRC jurisdiction. If Mr. Preston acts as an assistant radiographer within NRC jurisdiction during this period, he shall:

a. Notify the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois, 60137, at least five days prior to his being employed to perform work as an assistant radiographer within NRC jurisdiction. The Notice shall include the name, address, and telephone number of the NRC or Agreement State licensee; and

b. Provide a copy of this Modified Confirmatory Order to any employer holding either an NRC license or an Agreement State license performing licensed activities in NRC jurisdiction, prior to his performing work for that employer as an assistant radiographer.

4. Notwithstanding the provisions of paragraph 1, above, in the event that Mr. Preston, ATI, or a successor entity violates paragraph 3 of this Section, then the civil penalty of $15,000 will be reinstated by an Order Imposing Civil Penalty and the civil penalty of $15,000 will be due in full within 30 days of the date of that Order Imposing Civil Penalty.

5. Mr. Preston, ATI, and any successor entity waive the right to contest this Modified Confirmatory Order in any manner, including requesting a hearing on this Amended Confirmatory Order or the Order Imposing Civil Penalty, should one be issued as provided in paragraph 4 of this Section.

For the Nuclear Regulatory Commission.

Dated: January 5, 1994.

James Lieberman,

Director, Office of Enforcement.

For American Testing and Inspection, Inc. and Ronald Preston.

Dated: December 1, 1993.

Ronald Preston,

Former President, American Testing and Inspection, Inc.

[FR Doc. 94–704 Filed 1–12–94; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–390 50–391]

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2

Order

Tennessee Valley Authority (the permittee) is the current holder of Construction Permit Nos. CPPR–91 and CPPR–92, issued by the Atomic Energy Commission on January 23, 1973, for construction of the Watts Bar Nuclear Plan, Units 1 and 2. These facilities are currently under construction at the permittee's site on the west branch of the Tennessee River approximately 50 miles northeast of Chattanooga, Tennessee.

On November 10, 1993, the Tennessee Valley Authority filed a request pursuant to 10 CFR 50.55(b) for an extension of the completion dates. The permittee requested this extension for Unit 1 because, at the time the last extension was requested, the permittee could only make a best estimate of the extra time needed to complete construction and modification, and under-estimated. Furthermore, to ensure that Unit 1 has been properly constructed, the permittee is performing a comprehensive Preoperational Testing Program, instead of relying on preoperational test results obtained a few years ago.

The permittee requested extension for Unit 2 because it plans to complete Unit 2 only after Unit 1 enters operation successfully.

The NRC staff has concluded that good cause has been shown for the delays, the extension is for a reasonable period, and that this action involves no significant hazards consideration, the basis for which are set forth in the staff's evaluation.

The NRC staff has prepared an environmental assessment and finding of no significant impact which was published in the **Federal Register** on December 14, 1993.

Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion dates will have no significant impact on the environment.

The applicant's letter dated November 10, 1993, and the NRC staff's letter and Safety Evaluation of the request for extension of the construction permits, dated December 14, 1993, are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Chattanooga-County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

It is hereby ordered that the latest completion dated for Construction Permit No. CPPR–91 is extended from December 31, 1993 to December 31, 1994 and the latest completion date for Construction Permit No. CPPR–92 is extended from June 30, 1997 to December 31, 1999.

Dated at Rockville, Maryland, this 14th day of December 1993.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 94–841 Filed 1–12–94; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A94–6 and Order No. 1000]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued January 7, 1994.

In the Matter of: Poland, Maine 04273 (Herbert Bunker, Petitioner) Before Commissioners: W.H. "Trey" LeBlanc III, Vice Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

Docket Number: A94–6.
Name of Affected Post Office: Poland, Maine 04273.
Name(s) of Petitioner(s): Herbert Bunker.
Type of Determination: Closing.
Date of Filing of Appeal Papers: January 3, 1994.
Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the January 3, 1994 filing date of this appeal (39 U.S.C. 404(b)(5)). In the interest of expedition, in the light of the 120-day decision schedule, the Commission reserves the right to request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioner. The Commission reserves the right to ask the petitioner for more information.

If the Postal Service files a brief or motion to dismiss or a motion to affirm the appeal, the Postal Service may incorporate by reference any memoranda it previously filed in this docket.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by January 18, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

January 3, 1994
Filing of Appeal Letter
January 7, 1994
Commission Notice and Order of Filing of Appeal
January 28, 1994
Last day of filing of petitions to intervene (see 39 CFR 3001.111(b))
February 7, 1994
Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b))
February 28, 1994
Postal Service's Answering Brief (see 39 CFR 3001.115(c))
March 15, 1994
Petitioner's Reply Brief should the Petitioner choose to file one (see 39 CFR 3001.115(d))
March 22, 1994
Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)
May 2, 1994
Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 94–826 Filed 1–12–94; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33442; File No. SR–CBOE–93–49]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Options and Long-Term Options on the CBOE Gaming Index and Long-Term Options on a Reduced-Value Gaming Index

January 6, 1994.

I. Introduction

On October 27, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the CBOE Gaming Index ("Gaming Index" or "Index"). Notice of the proposal appeared in the **Federal Register** on November 18, 1993.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the CBOE Gaming Index, an index developed by the CBOE. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Gaming Index ("Gaming LEAPS" or "Index LEAPS").[4] Gaming LEAPS will trade independent of and in addition to regular Gaming Index options traded on the Exchange.[5]

B. Composition of the Index

The Index is based on fifteen gaming industry stocks. Eight of those stocks currently trade on the New York Stock Exchange, Inc. ("NYSE"), and seven currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ").[6] The Index is price-weighted and will be calculated on a real-time basis using last sale prices.

As of December 31, 1993, the Index was at 244.52. As of October 20, 1993, the market capitalizations of the individual stocks in the Index ranged from a high of $5.08 billion to a low of $137.123 million, with the mean and median being $1.305 billion and $447.6 million, respectively. The market capitalization of all the stocks in the Index was $19.581 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 122.571 million shares to a low of 9.066 million shares. The average price

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] See Securities Exchange Act Release No. 33173 (November 9, 1993), 58 FR 60889 (November 18, 1993).

[4] LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long-term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).

[5] According to the CBOE, the S&P Gaming Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the gaming industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed gaming industry funds, as well as a means of hedging the risks of investing in the gaming industry.

[6] All seven NASDAQ component stocks are currently qualified for and traded on the NASDAQ National Market.

per share of the stocks in the Index, for a six-month period between April 1 and September 30, 1993, ranged from a high of $56.15 to a low of $7.92. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,099,278 shares per day to a low of 93,627 shares per day, with the mean and median being 384,389 and 351,635 shares, respectively. Lastly, no one stock comprised more than 16.19% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 55.51% of the Index's value. The percentage weighting of the lowest weighted stock was 1.57% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 16.28% of the Index's value.

C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time to reflect the conditions in the gaming industry. If it becomes necessary to replace a stock in the Index, the Exchange represents that it will make every effort to add new stocks that are representative of the gaming industry and will take into account a stock's capitalization, liquidity, volatility, and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of Index component stocks to fewer than ten, the proposal provides that the CBOE will submit a rule filing with the Commission pursuant to Section 19(b) of the Act. In addition, in choosing replacement stocks for the Index, the CBOE will be required to ensure that at least 90% of the weight of the Index continues to be made up of stocks that are eligible for standardized options trading.[7]

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this order, the rules in Chapter XXIV of the CBOE Rules will be applicable to Gaming Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow-based index options.

[7] See note 22, *infra*.

E. Calculation of the Index

The CBOE Gaming Index is a price-weighted index and reflects changes in the prices of the Index component stocks relative to the Index's base date. Specifically, the Index value is calculated by adding the prices of the component stocks and them dividing this summation by a divisor that is equal to the number of stocks in the Index to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor adjustments include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

The Index will be calculated continuously and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE, based on the last-sale prices of the component stocks.[8] OPRA, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded on and trough the NASDAQ National Market, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[9]

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[10] Standard options trading hours (8:30 a.m. to 3:10 p.m.) Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[11] In addition, pursuant to CBOE Rule 24.9, there will be six expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus three additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Gaming Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Gaming Index or a reduced-value Gaming Index that will be computed at one-tenth the value of the full-value Index. Existing Exchange requirements applicable to full-value and reduced-value LEAPS will apply to full-value and reduced-value Index LEAPS.[12] Also, the current and closing Index value for reduced-value Gaming LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value Index LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin

[8] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the CBOE will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[9] *Id.*

[10] A European-style option can be exercised only during a specified period before the option expires.

[11] For a description of the strike price intervals for reduced-value Index options and long-term Index options, See Section G, *infra*.

[12] See CBOE Rule 24.9(b).

requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Gaming Index options and Gaming Index LEAPS. Specifically, Exchange rules governing margin requirements,[13] position and exercise limits,[14] and trading halt procedures [15] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, tend reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[16]

[13] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long term options positions, 100% of the options premium paid.

[14] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[15] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

[16] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[17] Specifically, the Commission finds that the trading of Gaming Index options, including full-value and reduced-value Index LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the gaming industry.[18] The trading of options on the Gaming Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Gaming Index and reduced-value Gaming Index are narrow-based indices. The Gaming Index is comprised of only fifteen stocks, all of which are within one industry—the gaming industry. In addition, the basic character of the reduced-value Gaming Index, which is comprised of the same component securities as the Gaming Index and calculated by dividing the Gaming Index value by ten, is essentially identical to the Gaming Index.[19] Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[20]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 384,389 and 351,635 shares, respectively.[21] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $5.08 billion to a low of $37.123 million as of October 20, 1993, with the mean and median being $1.305 billion and $447.566 million, respectively. Third, although the Index is only comprised of fifteen component stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 16.19% of the Index's total value and the percentage weighting of the three largest issues in the Index accounting for 37.75% of the Index's value. Fourth, all fifteen stocks in the Index currently are eligible for options trading.[22] The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if the CBOE increases the number of component stocks to more than twenty or decreases that number to less than ten, the CBOE will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of Gaming

[17] 15 U.S.C. 78f(b)(5) (1988).

[18] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the pubic interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Gaming Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the gaming industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the gaming industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Gaming Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[19] See generally Securities Exchange Act Release No. 29994 (November 26, 1991), 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

[20] See supra notes 13 through 15, and a accompanying text.

[21] In addition, for the six-month period between April 1 and September 30, 1993, all of the companies comprising the Index had an average daily trading volume greater than 93,627 shares per day.

[22] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Gaming Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Gaming Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Gaming Index options (including full-value and reduced-value Gaming LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Gaming Index options and Gaming Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[23] In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[24]

D. Market Impact

The Commission believes that the listing and trading of Gaming Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.[25] First, as described above, for the most part, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks.[26] Third, the position and exercise limits applicable to Index options and Index LEAPS will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Gaming Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[27]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (SR–CBOE–93–49) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–877 Filed 1–12–94; 8:45 am]

BILLING CODE 8010-01-M

[23] Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[24] See note 16, *supra*. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing gaming industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing arrangement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement. Such a change in the composition of the Index may warrant the submission of a rule filing pursuant to Section 19 under the Act.

[25] In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and Index LEAPS. See letter from Nancy L. Nielsen, Assistant Corporate Secretary, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated October 26, 1993, and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated October 22, 1993.

[26] See note 22, *supra*.

[27] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[28] 15 U.S.C. 78s(b)(2) (1988).

[29] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–33430; File No. SR–CBOE–93–51]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to an Extension of the Modified Trading System Pilot Program

January 5, 1994.

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 24, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to extend its Modified Trading System pilot program until November 30, 1994. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has

prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to extend the operation of the Exchange's Modified Trading System pilot program ("MTS Pilot Program" or Pilot Program").[1] Under Exchange Rule 8.80(a), the MTS Pilot has been authorized by the Commission to operate through September 22, 1993.[2] The proposed rule change would revise Exchange Rule 8.80(a) to extend the MTS Pilot Program until November 30, 1994.

The Exchange's MTS Pilot Program permits the CBOE to assign a Designated Primary Market Maker ("DPM") for options classes. Under the Pilot Program, members appointed as DPMs assume responsibilities and acquire rights in their appointed options classed beyond the obligations and rights of other market makers that trade in the same options class. Specifically, in addition to the normal obligations of a market maker, the DPM assumes additional obligations designed to strengthen the market making in the designated options class, such as (1) assuring that disseminated market quotations are accurate; (2) being present at the training post throughout every business day; (3) resolving trading disputes, subject to Floor Official review; and (4) participating at all times in any automated execution system which may be open in appointed options classes.[3]

When the Commission last extended the MTS Pilot Program in 1991, the Commission stated that prior to granting permanent approval or a further extension of the Pilot Program, the Exchange would have to submit a report discussing various aspects of the Pilot Program.[4] As a result, in connection with this filing, the CBOE has filed such a report with the Commission ("MTS Report").[5] The central findings stated by the Exchange in the MTS Report are that: (1) No complaints have been lodged with the Exchange concerning the operation of the Pilot Program; (2) no disciplinary or performance action has been taken against any Exchange member due to the operation of the Pilot Program; (3) since its inception, use of the Pilot Program by members has consistently increased in terms of the number of DPMs, the number of options classes assigned to DPMs, and the aggregate average daily trading volume associated with options classes assigned to DPMs; and (4) objective and subjective surveys of members conducted by the Exchange's research department have consistently shown that options classes assigned to DPMs are characteristized by narrower bid/ask spreads than other options classes listed on the Exchange.[6]

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it is designed to promote just and equitable principles of trade, and perfect the mechanism of a free and open market. Specifically, the Exchange believes that the proposed rule change will continue the operation of a trading system that, in accordance with Section 11A(a)(1)(C)(i) of the Act,[7] assures the economic and efficient execution of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the MTS Pilot Program until November 30, 1994 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) thereunder.[8] Specifically, based on the representations made by the Exchange in the MTS Report, the Commission concludes that the Pilot Program has contributed to the protection of investors and to the Exchange's ability to provide fair and orderly markets in new options products. Additionally, the growth in the use of the MTS Pilot Program as represented by the CBOE, combined with the Exchange's findings that options classes assigned to DPMs are consistently characterized as having narrowing bid/ask spreads than other options classes, leads the Commission to conclude that the Pilot Program is beneficial in achieving fair and orderly markets for options classes. Accordingly, for the reasons stated herein and for the reasons originally articulated in the Commission's order first approving the MTS Pilot Program,[9] the Commission concludes that extending the Pilot Program will further contribute to the protection of investors and to the Exchange's ability to provide fair and orderly markets in new options products.[10]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the uninterrupted continuation of the MTS Pilot Program. As set forth

---

[1] The MTS was originally approved by the Commission in 1987 as a two-year pilot program. *See* Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122 (September 29, 1987).

[2] See Securities Exchange Act Release Nos. 27187 (August 22, 1989), 54 FR 35960 (August 30, 1989) (extending MTS Pilot Program until September 22, 1991); and 29935 (November 13, 1991), 56 FR 58595 (November 20, 1991) (extending MTS Pilot Program until September 22, 1993) ("Exchange Act Release No. 29935").

[3] See Exchange Rule 8.80(c)

[4] Specifically, the Exchange was to submit a report addressing: (1) whether there have been any complaints regarding the operation of the Pilot Program; (2) whether the CBOE has taken any disciplinary or performance action against any member due to the operation of the Pilot Program; (3) the number of DPM's involved in the Pilot Program; (4) the extent to which the Pilot Program has been used on the CBOE; (5) whether the CBOE terminated or replaced a DPM and the reasons therefore; (6) the impact of the Pilot Program on the bid/ask spreads, depth and continuity in the CBOE options markets; and (7) whether the CBOE has taken any action or there have been any complaints against DPMs or associated broker-dealers relating to the improper activity as a result of DPM affiliations with upstairs firms. See Exchange Act Release No. 29935, *supra* note 2.

[5] See Letter from Daniel Hustad, Director, Market Procedures and Planning Department, CBOE, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division of Market Regulation, Commission, dated January 5, 1994.

[6] *Id.*

[7] 15 U.S.C. § 78k–1(a)(1)(C)(i) (1990).

[8] 15 U.S.C. 78f(b)(5) (1982).

[9] See Exchange Act Release No. 24934, *supra* note 1.

[10] The Commission notes, however, that before the pilot program can be approved on a permanent basis or further extended, the CBOE must provide the Commission with a detailed report on the operation of the MTS pilot program incorporating the MTS Report and supplementing it with any new developments arising during this extension of the pilot program.

in the MTS Report, the CBOE has represented that no adverse comments have been received and no problems have arisen in connection with the operation of the MTS Pilot Program since its inception. Furthermore, the Commission has not received any comments opposing the Pilot Program or otherwise indicating that the Pilot Program is operating other than as originally intended. Accordingly, the Commission believes good cause exists for approving the extension of the Pilot Program until November 30, 1994, on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–93–51 and should be submitted by February 3, 1994.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CBOE–93–51) is approved, and, accordingly, the MTS Pilot Program is extended until November 30, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–819 Filed 1–12–94; 8:45 am]

BILLING CODE 8010-01-M

[11] 15 U.S.C. 78s(b)(2) (1982).

[12] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–33436; File No. SR–CBOE–93–61]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Message Service User Fees

January 5, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 29, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to increase the monthly subscriber fees to be paid by members who receive local time and sales microfiche. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed amendment is to increase the monthly subscriber fees, effective January 1, 1994, to be paid by members who receive local time and sales microfiche.[1] The current fees, established in 1987, for time and sales microfiche is $250 per month for each copy received. The CBOE represents that increased supplier costs and additional option classes have caused production costs to rise. To cover these costs, the local time and sales microfiche fees will increase to $335 per month for each copy received.

This action is being taken pursuant to CBOE Rule 2.22, which permits the Exchange to impose fees on members for the use of Exchange facilities or for any services or privileges granted by the Exchange.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(4), in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and charges among CBOE members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e)(1) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[1] The Exchange has provided notice of this fee increase to all subscribers of the microfiche service. See Exchange Regulatory Circular #RG93–66 from the CBOE Market Operations Department to the Exchange's Local Time and Sales Microfiche Subscribers, dated December 22, 1993.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–93–61 and should be submitted by February 3, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–820 Filed 1–12–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33432; File No. SR–NASD–93–73]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Increased Position and Exercise Limits on Individual Equity Options

January 5, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 3, 1993, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend Section 3 of Appendix E of the NASD's Rules of Fair Practice ("Section 3") to increase certain of its position and exercise limit rules to conform to certain of the increased limits recently approved by the Commission for the options exchanges.[1] Specifically, the NASD proposes to increase the current position and exercise limits for equity options from 3,000, 5,500, and 8,000 contracts to 4,500, 7,500, and 10,500 contracts, respectively. The text of the proposed rule change is available at the Office of the Secretary, NASD, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The NASD proposes to amend its rules governing position and exercise limits for equity options[2] to conform to similar proposals by the options exchanges which were recently approved by the Commission.[3] Currently, under NASD rules, position and exercise limits are determined according to a "three-tiered" system. Specifically, depending upon the trading volume and float of the underlying security and whether the underlying security underlies an exchange-traded option, the position limit for an equity option is either 3,000, 5,500, or 8,000 contracts.[4] In particular, under Section 3, the 8,000 contract position limit applies to: (1) Exchange-listed options traded by "access"[5] firms with a corresponding 8,000 contract position limit imposed by the options exchange(s) on which the option is traded; and (2) all conventional options[6] overlying equity securities which underlie exchange-traded options that have an 8,000 contract position limit. Similarly, the 5,500 contract position limit applies to: (1) Exchange-listed options traded by access firms with a corresponding 5,500 contract position limit imposed by the options exchange(s) on which the option is traded; and (2) all conventional options overlying equity securities which underlie exchange-traded options that have a 5,500 contract position limit. Lastly, the 3,000 contract position limit applies to: (1) Exchange-listed options traded by access firms with a corresponding 3,000 contract position limit imposed by the options exchange(s) on which the option is traded; and (2) all conventional options overlying equity securities which either underlie exchange-traded options that have a 3,000 contract position limit or do not underlie an exchange-traded option.

Under the proposal, the NASD proposes to increase the current position and exercise limits for equity options from 3,000, 5,500, and 8,000 contracts to 4,500, 7,500, and 10,500 contracts, respectively. Thus, for NASD members that are access firms and all NASD members involved in transactions in conventional options on securities which underlie exchange-traded options, the proposal will conform the NASD's position and exercise limits to the limits of the options exchanges. The proposed amendments also will raise position and exercise limits for conventional options on securities that do not underlie exchange-traded options from 3,000 contracts to 4,500 contracts.

The NASD believes the proposed increases in equity option position and exercise limits are warranted for the following reasons. First, the proposed

---

[2] 17 CFR 200.30–3(a)(12) (1993).

[1] See Securities Exchange Act Release Nos. 33285 (December 3, 1993), 58 FR 65201 (December 13, 1993) (order approving File No. SR–Amex–93–27); 33283 (December 3, 1993), 58 FR 65204 (December 13, 1993) (order approving File No. SR–CBOE–93–43); 33284 (December 3, 1993), 58 FR 65215 (December 13, 1993) (order approving File No. SR–NYSE–93–41); 33282 (December 3, 1993), 58 FR 65218 (December 13, 1993) (order approving File No. SR–PSE–92–38); and 33288 (December 3, 1993), 58 FR 65221 (December 13, 1993) (order approving File No. SR–Phlx–93–07) (collectively, "1993 Position Limit Approval Orders").

[2] Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (i.e., aggregating long calls and short puts, and long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits restrict the number of options contracts which an investor or group of investors acting in concert can exercise within five consecutive business days. Under NASD Rules, exercise limits correspond to position limits, such that investors in options classes on the same side of the market are allowed to exercise, during any five consecutive business days, only the number of options contracts set forth as the applicable position limit for those options classes. See Sections 3 and 4 of Appendix E of the NASD's Rules of Fair Practice.

[3] See supra note 1.

[4] In this connection, the NASD's rules do not specifically govern how a specific equity option falls within one of the three position limit tiers. Rather, the NASD's position limit rule provides that the position limit established by an options exchange for a particular equity option is the applicable position limit for purposes of the NASD's rule. See, e.g., Commentary .07 to American Stock Exchange, Inc. Rule 904.

[5] "Access" firms are NASD members which conduct a business in exchange-listed options but which are not members of any of the options exchanges upon which the options are listed and traded.

[6] Conventional equity options are defined in Section (1)(gg) of Appendix E to the NASD's Rules of Fair Practice to mean "any option contract not issued, or subject to issuance, by The Options Clearing Corporation."

increases will afford market participants greater flexibility to employ larger options positions when effectuating their investment strategies. Second, the NASD believes that the proposed increases likely will facilitate greater activity in exchange-traded options, thereby enhancing liquidity in the markets for exchange-traded options and the securities underlying those options. Third, by conforming the NASD's position and exercise limits to the limits of the options exchanges, the NASD believes there will be no confusion among market participants concerning applicable position and exercise limits. Finally, with respect to equity securities underlying exchange-traded options, market participants will continue to be able to establish conventional options positions on these securities equivalent in size to standardized options position on these securities.

Moreover, the NASD believes that the adoption of increased equity option position and exercise limits will not compromise the integrity of the options markets or jeopardize the stability of the securities markets underlying exchange-traded equity options or conventional equity options. In this regard, because the proposal will result in only a modest increase in the percentage of the capitalization of the underlying equity security that an investor or group of investors acting in concert can control under the new position limits for any given equity security, the NASD believes the proposed position limit increases are very modest. Furthermore, the NASD notes that it will continue to apply its options surveillance procedures, that the options exchanges will continue to apply their surveillance procedures, and that the NASD and the options exchanges will continue to be members on the Intermarket Surveillance Group.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD has requested that the proposed rule changes be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[7] Specifically, the Commission concludes that the proposed position and exercise limits of 4,500 contracts, 7,500 contracts, and 10,500 contracts for equity options will further increase the potential depth and liquidity of the options market as well as the underlying cash market without significantly increasing concerns regarding intermarket manipulations or disruptions of the market for the options or underlying securities.

The discussion articulated in the 1993 Position Limit Approval Orders,[8] is incorporated herein.

In addition, the absence of discernible manipulative problems under the current three-tiered limit system for individual equity options leads the Commission to conclude that the increases being proposed by the NASD are warranted. The Commission recognizes that there are no ideal limits in the sense that options positions of any given size can be stated conclusively to be free of any manipulative concerns. The options exchanges, the NASD, and the Commission, however, have relied largely on the absence of discernible manipulation or disruption problems under current limits as an indicator that additional increases can be safely considered. The Commission believes for these reasons that the liberalization of existing position and exercise limits is now appropriate.[9]

The Commission notes that the NASD has had considerable experience monitoring the current three-tiered framework in individual equity options.[10] The Commission has not found that differing position and exercise limit requirements based on the particular options product to have created programming or monitoring problems for securities firms, or to have led to significant customer confusion. Based on the current experience in handling position and exercise limits, the Commission believes that the increase in position and exercise limits for individual equity options will not cause significant problems. Additionally, the Commission believes that the NASD's surveillance program will be adequate to detect and deter the use of illegal position limits by market participants as well as attempted manipulative activity and other trading abuses.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because, in light of the Commission's recent approval of similar proposals by the options exchanges,[11] accelerating approval of this proposal will permit the position and exercise limit framework for individual equity options across options exchanges and the NASD to remain uniform.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal

[7] 15 U.S.C. 78f(b)(5) (1982).

[8] See *supra* note 1.

[9] The Commission continues to believe that proposals to increase position limits and exercise limits must be justified and evaluated separately. After reviewing the proposed exercise limits, along with the eligibility criteria for each tier, the Commission has concluded that the exercise limit increases for the three-tiered framework, do not raise manipulation problems or increase concerns over market disruption in the underlying securities.

[10] Currently, for example, position and exercise limits for individual equity options are limited to positions of 8,000, 5,500, and 3,000 contracts.

[11] See *supra* note 1.

office of the NASD. All submissions should refer to File Number SR–NASD–93–73 and should be submitted by February 3, 1994.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NASD–93–73) relating to an increase in position and exercise limits is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–821 Filed 1–12–93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–33441; File No. SR–PSE–93–23]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Employee Gratuities

January 6, 1994.

On September 28, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the PSE's rules to increase from $25.00 to $50.00 the amount of gifts or gratuities which an Exchange employee or the employee of an Exchange member may receive from an Exchange member without the consent of his employer.

The proposed rule change was published for comment in Securities Exchange Act Release No. 33091 (October 22, 1993), 58 FR 50210. No comments were received on the proposed rule change.

Currently, Exchange Rule 1.17(g), "Gratuities, Employees," prohibits members from giving any compensation or gratuity to any employee of any other Exchange member, or non-member brokers, dealers, banks, or institutions, without the prior consent of his employer. Exchange Rule 1.18(g) also prohibits members from giving any compensation or gratuity to any Exchange employee without the prior written consent of the Exchange. Under the rules, a gift of any character having a valuation of more than $25.00 is considered to be a gratuity. Exchange Rule 1.17 (f), "Requests for Approval," provides that any request to the Exchange for consent to make a gift or gratuity to an Exchange employee must specify, among other things, the dollar amount of the value of such gift or gratuity when it is in excess of $25.00. The Exchange proposes to amend Exchange Rules 1.17 (f) and (g) to increase the dollar amount from $25.00 to $50.00 in order to make the PSE's rules consistent with the rules of the other self-regulatory organizations ("SROs")[3] and to allow for inflation.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of section 6(b)(5)[4] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. The Commission believes that Exchange Rules 1.17 and 1.18 are designed to prevent fraudulent acts and practices which might arise in connection with the giving of valuable gifts without the employer's knowledge. In particular, the rules require the principal employer (i.e., the relevant Exchange member and/or the Exchange) to review a gratuity or compensation arrangement to determine whether a conflict of interest exists. Under the proposed rule change, the employer will still be required to approve in writing any of the covered gratuity or compensation arrangements, and thus will have to review the proposed arrangements.

The proposal will change only the dollar limitations in the Exchange's rules, so that gifts over $50.00, rather than $25.00, will be considered gratuities. The Commission believes that the proposed increase from $25.00 to $50.00 will neither compromise the intent nor reduce the ability of the rules to prevent fraudulent acts and practices which might arise in connection with the giving of valuable gifts or payments to persons without their employer's knowledge. In addition, the Commission notes that the proposal is consistent with the rules of other SROs.[5]

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–PSE–93–23) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–823 Filed 1–12–94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–33431; File No. SR–PSE–93–32]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Listing and Trading Options on the Interactive Communications Sector Index

January 5, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 30, 1993, the Pacific Stock Exchange ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to list for trading options on the Interactive Communications Sector Index. The text of the proposed rule change is available at the Office of the Secretary, PSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PSE has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

---

[12] 15 U.S.C. 78s(b)(2) (1982).

[13] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] See, e.g., New York Stock Exchange Rule 350(a)(2); American Stock Exchange Rule 348, Commentary .01; Chicago Board Options Exchange Rule 4.4; and National Association of Securities Dealers Rules of Fair Practice, Article III, § 10(a) (paragraph 2160).

[4] 15 U.S.C. 78f(b) (1982).

[5] See note 3, *supra.*

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30–3(a)(12) (1993).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to trade options on the Interactive Communications Sector Index ("Index"), a new stock index developed by the Exchange based on various stocks in the interactive communications industry that are traded on either the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("Amex"), or are national market system ("NMS") securities traded through the facilities of the National Association of Securities Dealers ("NASD") Automated Quotations System ("NASDAQ"). The Exchange also proposes to list long-term options on the Index and on a reduced-value Index ("Index LEAPS"), which will trade independent of and in addition to regular Index options traded on the Exchange.

Composition of the Index

The Index contains securities of highly-capitalized companies in the interactive communications industry. Currently, the Index is comprised of 24 stocks from the following three categories: Content providers (8 stocks);[1] distribution networks (8 stocks);[2] and information processors (8 stocks).[3] More specifically, the Index is comprised of individual stocks from the following 15 industry subgroups: Transaction services; filmed entertainment; programmers; music, games & education; publishing; business information systems; cable television operating companies; regional telephone companies; long-distance telephone companies; wireless communications; computers; consumer electronics; software; semiconductors; and communications equipment.

The 24 component stocks are listed for trading on the NYSE (13 stocks), the Amex (3 stocks),[4] or are traded through NASDAQ (8 stocks).[5] As of November 9, 1993, all of the component stocks in the Index, with the exception of one component (comprising 4.2% of the Index value) meet the Exchange's initial listing standards set forth in PSE Rule 3.6.

Index Calculation

The Index value is calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities is represented in approximately an "equal" dollar amount in the Index. The Exchange believes that this method of calculation is important since even among the largest companies in the interactive communications industry there is a great disparity in market value. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the interactive communications industry, AT&T currently represents over 22% of the aggregate market value of the Index. The Exchange believes that options on market-value weighted indexes dominated by one component stock are less useful to investors, since the index will tend to represent the one component and not the target industry that the Index is designed to represent.

The following is a description of how the equal-dollar weighted calculation method works. As of the market close on November 11, 1993, a portfolio of interactive communications stocks was established representing an investment of $41,667 in the stock (rounded to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. Each quarter, following the close of trading on the third Friday of January, April, July, and October, the Index portfolio will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in "equal" dollar amounts. The Exchange has chosen to rebalance the Index following the close of trading on the quarterly expiration cycle because it allows an option contract to be held for up to three months without a change in the Index portfolio while at the same time, maintaining the equal-dollar weighting feature of the Index. If necessary, a divisor adjustment is made when the rebalancing occurs to ensure continuity of the Index's value. The newly adjusted portfolio then becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The Exchange does not believe that there will be investor confusion regarding the adjustments since they will be done on a regular and timely basis, with adequate notice given. Specifically, the Exchange represents that an information circular will be distributed to all Exchange members notifying them of the quarterly changes. This circular will also be sent by facsimile to the Exchange's contacts at the major options firms, mailed to recipients of the Exchange's options-related information circulars, and made available to subscribers of the Options News Network. In addition, the Exchange will include in its promotional and marketing materials for the Index a description of the equal-dollar weighting methodology.

As noted above, the number of shares of each component stock in the Index portfolio remains fixed between quarterly reviews except in the event of certain types of corporate actions such as the payment of a dividend (other than an ordinary cash dividend), stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the merger or consolidation. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

The Exchange or its designee will calculate and maintain the Index, and may at any time or from time to time substitute stocks, or adjust the number of stocks included in the Index, based on changing conditions in the interactive communications industry. However, in the event the Exchange determines to increase the number of index component stocks to greater than thirty-two or reduce the number of component stocks to fewer than sixteen, the Exchange will give prior written

[1] These components of the Index are: Time Warner, Inc.; Walt Disney Co.; turner Broadcasting System Inc. (Class B); QVC Network, Inc.; Viacom, Inc. (Class B); Tribune Company; Electronic Arts, Inc.; and Broderbund Software, Inc.

[2] These components of the Index are: Bell Atlantic Corp.; BellSouth Corp.; U.S. West, Inc.; Motorola, Inc.; American Telephone & Telegraph Co.; Comcast Corp.; Pacific Telesis Group; and Telephone and Data Systems, Inc.

[3] These components of the Index are: DSC Communications Corp.; Northern Telecom Limited; 3DO Co.; Apple Computer, Inc.; Silicon Graphics, Inc.; General Instrument Corp.; Scientific-Atlanta, Inc.; and Microsoft Corp.

[4] All of the Amex components are listed pursuant to Amex's Original Listing Requirements contained in Sections 101–145 of the Amex Company Guide. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulations, PSE, and Brad Ritter, Attorney, Office of Derivatives Regulation, Division of Market Regulation, Commission, on January 5, 1994.

[5] Currently all of the NASDAQ issues included in the Index are NMS securities.

notice to the Commission.[6] In selecting securities to be included in the Index, the Exchange will be guided by a number of factors including market value of outstanding shares and trading activity. The eligibility standards for Index components are described below.

The value of the Index will be calculated every fifteen seconds throughout the trading day by Bridge Data Services and will be disseminated by the Options Price Reporting Authority to wire services, quote vendors and the financial media.

Expiration and Settlement

The proposed options on the Index will be European-style[7] and cash-settled. The Exchange's standard options trading hours, from 6:30 a.m. to 1:15 p.m. Eastern Standard Time, will apply. The options on the Index will expire on the Saturday ("Expiration Saturday") following the third Friday of the expiration month. The last trading day in an expiring series will normally be the second to the last business day preceding Expiration Saturday (normally a Thursday), with trading to cease at the close of business on such day.

The Exchange plans to list option series with expirations in the three near-term calendar months and in the two additional calendar months in the January cycle. In addition, the Exchange proposes to list longer term option series having up to thirty-six months to expiration. In lieu of such long-term options on a full-value Index level, the Exchange also proposes to have the option of listing long-term, reduced-value put and call options based on one-tenth (1/10th) the Index's full value. In either event, the interval between expiration months for either a full-value or reduced-value long-term option would not be less than six months. The trading of any long-term options would be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures and all options will have European-style exercise. Position limits on reduced-value long-term Index options would be ten times the position limits for regular (full value) Index options and would be aggregated on a one for one basis with such options (for example, if the position limit for full value options is 10,500 contracts on the same side of the market, then the position limit for the reduced-value options will be 105,000 contracts on the same side of the market).

The Index value for purposes of settling the Index options will be calculated based upon the opening prices of the component securities pursuant to the normal opening procedures of the primary exchange where the securities are traded on the Friday before Expiration Saturday. In the case of securities traded through the NASDAQ system, the first reported sale price on the Friday before Expiration Saturday will be used. As trading begins in each of the Index's component securities, its opening sale price is captured for use in the calculation. Once all of the component stocks have opened, the Index settlement value is then determined. If any of the component stocks do not open for trading on the last trading day before Expiration Saturday, then the prior day's last sale price is used in the calculation.

Eligibility Standards for Index Components

In choosing among interactive communications industry stocks for inclusion in the Index, the Exchange will focus only on stocks that are traded on the NYSE, the Amex,[8] or are NMS securities traded through the NASDAQ. In addition, the Exchange intends to select stocks that:

(1) Have a minimum market value (in U.S. dollars of at least $75 million;[9] and

(2) Have an average monthly trading volume in U.S. markets over the previous six month period of not less than one million shares (or American Depository Receipts ("ADRs" [10])).

The Index is currently comprised of 24 component securities. Of the components, 23 are eligible for, and are the subject of, standardized options trading.[11] However, to address concerns about the possibility of manipulation of an index containing a large percentage of stocks that do not meet the eligibility standards applicable to stocks eligible for standardized options trading, at each quarterly rebalancing, stocks that meet the then current criteria for standardized options trading set forth in Exchange Rule 3.6 will be required to account for at least 90% of the Index's numerical index value.

Exchange Rules Applicable to Stock Index Options

PSE Rule 7 will apply to the trading of options contracts based on the Index. Surveillance procedures currently used to monitor trading in the Exchange's other index options will also be used to monitor trading in options on the Index. The Exchange proposes to list near-the-money (i.e., within ten points above or below the current index value) option series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points.

Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act, in general, and furthers the objectives of section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

---

[6] Such a change in the number of components in the Index may warrant the submission of a rule filing pursuant to Section 19 of the Act of Rule 19b-4 thereunder.

[7] European-style options can only be exercised during a specified period before the options expire.

[8] Securities listed on the Amex will only be considered for inclusion in the Index if those securities satisfy the Original Listing Requirements set forth in Sections 101–145 of the Amex Company Guide. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulation, PSE, and Brad Ritter, Attorney, Office of Derivatives Regulation, Division of Market Regulation, Commission, on January 5, 1994.

[9] In the case of ADRs, this represents market value as measured by total world-wide shares outstanding.

[10] An ADR is a negotiable receipt which is issued by a depository, generally a bank, representing shares of a foreign issuer that have been deposited and are held, on behalf of holders of the ADRs, at a custodian bank in the foreign issuer's home country.

[11] 3DO Co. is the only component of the Index not currently eligible for standardized options trading.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–93–32 and should be submitted by February 3, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–822 Filed 1–12–94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–20006; 812–8690]

PIC Investment Trust, et al.; Notice of Application

January 7, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: PIC Investment Trust (the "Trust"), on behalf of two of its series, PIC Pinnacle Growth Fund and PIC Balanced Investors Fund (each a "Fund"); First Fund Distributors, Inc. (the "Distributor"); and all other open-end management investment companies, or series thereof, which invest substantially all of their assets in a registered investment company for which the adviser in the future serves as investment adviser, that are in the same "group of investment companies," as defined in rule 11a–3 under the Act, as the Funds, and whose shares will be distributed on substantially the same basis as those of the Funds.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d), and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit certain registered open-end investment companies to impose a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and waive the CDSC in certain specified instances.

FILING DATE: The application was filed on November 16, 1993, and amended on December 21, 1993. By letter dated January 6, 1994, applicants have agreed to make certain technical changes to the application, and to file an amendment prior to the issuance of any order granting the requested relief. This notice reflects the application as though such amendment had been filed.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 1, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. The Trust and the Funds, 300 North Lake Avenue, Pasadena, California 91101; the Distributor, 479 West 22nd Street, New York, New York 10011.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations:

1. The Trust is an open-end management investment company organized as a Delaware business trust. The Trust currently is comprised of six series, including the Funds. The Funds will be offered to the public, upon the effectiveness of the Trust's registration statement covering them, and if the requested order is issued.

2. Each Fund will invest substantially all of its assets in a corresponding portfolio, PIC Pinnacle Growth Portfolio and PIC Balanced Portfolio (the "Portfolios"), which are registered open-end management investment companies organized as a New York business trusts. The Portfolios will not offer their shares to the public but will sell their shares to other mutual funds or institutional investors in private placement transactions. Under this arrangement, the Portfolios would be "master" funds, and the Funds would be "feeder" funds.

3. Each Portfolio has entered into or will enter into an advisory agreement with Provident Investment Counsel (the "Adviser"), a registered investment adviser, and an administration agreement with Investment Company Administration Corporation (the "Administrator"). The Trust and the Funds have not retained the services of an investment adviser because the Funds seek to achieve their investment objectives by investing all of their assets in corresponding Portfolios. Distribution and shareholder servicing fees and costs, and additional administrative expenses, are paid by the Trust at the Fund level. The Trust and each Fund have entered into or will enter into an administration agreement with the Administrator, which will provide administrative services, and distribution and shareholder service plans with the Distributor.

4. The Distributor is a registered broker-dealer and will serve as the principal underwriter for each Fund. The Distributor will enter into selling group agreements with unaffiliated broker-dealers pursuant to which the broker-dealers will sell Fund shares.

5. Under the "master-feeder" structure between the Trust and the Portfolios, all portfolio management services are provided, and all related costs are incurred, at the Portfolio level, although each Fund will bear its *pro rata* share of the corresponding Portfolio's costs and expenses.

6. Shares of the Funds generally will be offered for sale to the public at net asset value plus a front-end sales load. Currently, the proposed sales load will be 4.75 percent for purchases of less than $50,000, with lesser sales load applying to larger purchases, and no front-end sales load applying to purchases of $1,000,000 or more.

7. Applicants request an exemptive order that would permit them to assess a CDSC on shares sold without a front-end sales load because of a volume purchase of $1,000,000 or more, and

[12] 17 CFR 200.30–3(a)(12) (1993).

that are redeemed within a specified period (the "CDSC period") after their purchase date. The CDSC will be equal to a percentage (the "CDSC percentage") of the lesser of the net asset value of the shares at the time of purchase or at the time of redemption. Currently, the CDSC period is anticipated to be one year, and the CDSC percentage is anticipated to be one percent. Applicants in all cases will comply with article III, section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc., as it relates to the maximum amount of asset-based sales charges that may be imposed by an investment company, when and in the form (as amended from time to time) the provisions of such Rules relating to such charges become effective, and for as long as they remain in effect.

8. No CDSC will be imposed on redemptions of shares acquired through reinvestment of income dividends or capital gain distributions, on amounts derived from increases in the value of the account above the amount of purchase payments, or on shares held for longer than the CDSC period. In determining whether the CDSC is payable, it will be assumed that shares not subject to the CDSC are redeemed first and that other shares then are redeemed in the order purchased. In addition, no CDSC will be imposed on the redemption of shares of the Funds purchased prior to the grant of the requested order.

9. Applicants proposes to waive the CDSC on redemptions of shares of the Fund: (a) For distributions from qualified retirement plans and other employee benefit plans qualified under section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), (b) for distributions from custodial accounts under section 403(b)(7) of the Code or individual retirement accounts ("IRAs") due to death, disability, or attainment of age 59½, (c) for tax-free returns of excess contributions to IRAs, (d) for any partial or complete redemptions following death or disability (as defined in section 72(m)(7) of the Code) of a shareholder from an account in which the deceased or disabled is named, provided the redemption is made within one year of death or initial determination of disability, (e) pursuant to involuntary redemptions and automatic withdrawals, as described in each Fund's prospectus, and (f) by—(i) current or retired directors, trustees, partners, officers, and employees of the Trust, the Portfolios, the Distributor, the Adviser, family members of such persons, and trusts or plans primarily for such persons (ii) the Adviser, (iii) trustees and other fiduciaries purchasing shares for retirement plans of organizations with retirement plan assets of $100,000,000 or more, (iv) insurance company separate accounts, and (v) participants in pension, profit-sharing, or employee benefit plans sponsored by the Distributor and its affiliates.

10. The Distributor will provide a *pro rata* refund, out of its own assets, of any CDSC paid in connection with a redemption of shares (by crediting such CDSC to such shareholder's account) if, within 90 days of such redemption, all or any portion of the redemption proceeds are reinvested in shares of the Funds. Any such reinvestment will be made without the imposition of a front-end sales load but will be subject to the same CDSC to which such amount was subject prior to the redemption. The CDSC time period will run from the original investment date but will be extended by the number of days between the redemption and reinvestment dates.

11. Applicants may in the future reduce the CDSC percentage, or shorten the CDSC period. Applicants also may temporarily or permanently discontinue the CDSC in the future. However, any future changes, variations, discontinuations, or reinstatements of the CDSC will be disclosed in each affected Fund's prospectus, and will not affect shares issued prior to such disclosure.

Applicants' Condition

Applicants agree that the order granting the requested relief may be subject to the following condition:

Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–878 Filed 1–12–94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35–25971]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 7, 1994.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 31, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

General Public Utilities Corporation (70–7933)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, has filed a post-effective amendment to its declaration under section 12(b) of the Act and Rule 45 thereunder.

By order dated March 6, 1992 (HCAR No. 25486) ("Order"), the Commission authorized GPU through December 31, 1993 to make cash capital contributions to its three electric public-utility subsidiary companies ("Subsidiaries") in the following amounts: $100 million for Jersey Central Power & Light Company ("JCP&L"); $50 million for Metropolitan Edison Company ("Met-Ed"); and $50 million for Pennsylvania Electric Company ("Penelec"). GPU requested such authorization to provide it with flexibility to meet the Subsidiaries' financing and cash working capital requirements, while enabling the Subsidiaries to remain within the short-term debt limits of their respective charters particularly in the event that market or other conditions constrained the Subsidiaries' ability to issue senior securities.

Pursuant to Order, in October 1993 GPU made a cash capital contribution to Met-Ed in the amount of $50 million in order to enable Met-Ed to redeem two outstanding series of Met-Ed cumulative preferred stock pursuant to their

optional redemption provisions. GPU has not made any other cash capital contributions pursuant to the Order.

In order to maintain the financing flexibility described above, GPU now requests: (1) An extension of the time during which it may make the cash capital contributions authorized in the Order to JCP&L and Penelec, through December 31, 1996; and (2) authorization to make additional cash contributions to Met-Ed in the amount of $50 million, through December 31, 1996.

New England Electric System, et al. (70–7950)

New England Electric System ("NEES"), a registered holding company, and its nonutility subsidiary company, New England Electric Resources, Inc. ("NEERI"), both located at 25 Research Drive, Westborough, Massachusetts 01582, have filed a post-effective amendment under sections 9(a), 10 and 12(b) of the Act and Rule 45 thereunder. By order dated September 4, 1992 (HCAR No. 25621), the Commission, among other things, authorized NEERI to start the business of providing consulting services to nonaffiliates for profit.

NEERI now proposes to expand its consulting business, through December 31, 1997, to include the performance of electrical related services (designing, engineering, assisting in licensing and permitting, procuring materials and equipment, and installing, removing, or constructing electrical related materials). For instance, NEERI might install electrical poles, insulated wire, metering equipment or provide a turnkey installation service for small generators. In addition, NEES proposes to make additional capital contributions through December 31, 1997 of up to $1 million to NEERI.

Consolidated Natural Gas Company, et al. (70–8285)

Consolidated Natural Gas Company ("CNG"), a registered holding company, and it wholly owned nonutility subsidiary company, CNG Energy Company ("Energy"), both located at CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45 and 50 thereunder.

By order dated December 26, 1991 ("1991 Order"), HCAR No. 25446, Consolidated was authorized to provide, through December 31, 1996, up to $15 million to Energy for it to engage in preliminary development and administrative activities with respect to qualifying cogeneration facilities ("QFs") as defined in the Public Utility Regulatory Policies Act of 1978 ("PURPA"). As of June 30, 1993, CNG has provided $1.235 million to Energy under this authorization.

CNG now proposes to continue its preliminary project development and administrative activities in connection with its possible investments in QFs. Such activities will be consistent with those authorized in the 1991 Order. CNG further proposes to engage in preliminary development and administrative activities with respect to qualifying small power production facilities as defined in PURPA ("QSPs"), exempt wholesale generators ("EWGs") within the meaning of section 32 of the Act and foreign utility companies ("FUCOs") within the meaning of section 33 of the Act (collectively, "Preliminary Activities"). CNG further proposes to provide Energy, through December 31, 1998, up to an aggregate principal amount of $15 million to engage in Preliminary Activities. CNG and Energy will not, without further required Commission authorization, engage in any intrasystem financing for the future acquisition by Energy of an interest in QFs, QSPs, EWGs, or FUCOs.

Energy proposes to raise funds for the Preliminary Activities by: (1) Selling shares of its common stock, $1,000 par value, to CNG, (2) open account advances, or (3) long-term loans from CNG, in any combination thereof. The open account advances and long-term loans will have the same effective terms and interest rates as related borrowings of CNG in the forms stated below.

Open account advances may be made to Energy to provide working capital and to finance the activities authorized by the Commission. Open account advances will be made under letter agreement with Energy and will be repaid on or before a date not more than one year from the date of the first advance with interest at the same effective rate of interest as CNG's weighted average effective rate for commercial paper and/or revolving credit borrowings. If no such borrowings are outstanding, the interest rate shall be predicated on the Federal Funds' effective rate of interest as quoted daily by the Federal Reserve Bank of New York.

CNG may make long-term loans to Energy for the financing of its activities described herein. Loans to Energy shall be evidenced by long-term non-negotiable notes of CNG Energy (documented by book entry only) maturing over a period of time (not in excess of 30 years) to be determined by the officers of CNG, with the interest predicated on and substantially equal to CNG's cost of funds for comparable borrowings by the parent. In the event CNG has not had recent comparable borrowings, the rates will be tied to the Solomon Brothers Inc. indicative rate for comparable debt issuances published in Solomon Brothers Inc. Bond Market Roundup or similar publication on the date nearest to the time of takedown. All loans may be prepaid at any time without premium or penalty. CNG will obtain the funds required for Energy through internal cash generation, issuance of long-term debt securities, borrowings under credit agreements or through other future authorizations approved by the Commission.

American Electric Power Co., Inc., et al. (70–8307)

American Electric Power Company, Inc. ("AEP"), a registered holding company, and its nonutility subsidiary company, AEP Energy Services, Inc. ("AEP Energy") (collectively, "Applicants"), both located at 1 Riverside Plaza, Columbus, Ohio 43215, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and Rules 45, 50(a)(5), 87, 90, and 91 thereunder.

By order dated April 26, 1982 (HCAR No. 22468), the Commission authorized AEP to organize AEP Energy for the purpose of providing consulting services to nonassociate companies.[1] The 1982 Order also authorized AEP to make capital contributions to AEP Energy in the amount of up to $1 million.

The preliminary development activities associated with AEP Energy's consulting business include contract drafting and negotiating, preparation of proposals and other necessary activities to identify and analyze feasible consulting opportunities and to initiate the commercialization of a project. Authorized administrative activities include the ongoing personnel, accounting, engineering, legal, financial

[1] The 1982 Order also authorized AEP Energy to sell or otherwise dispose of intellectual property owned and/or developed by AEP system companies. Should AEP Energy use any intellectual property developed by American Electric Power Service Corporation ("AEP Service") or any other AEP system company, AEP Energy states that it will pay the following amounts to that AEP system company for any such intellectual property actually sold or licensed by AEP Energy: (1) 70% of the revenues from the intellectual property until the AEP system company that developed the intellectual property recovers its programming and development costs; and (2) 20% of such revenues thereafter. AEP Energy would pay cost for intellectual property developed at its request. AEP Energy would address such requests only to AEP Service.

and other support activities necessary for AEP Energy to manage its preliminary development activities related to consulting activities. However, AEP Energy is not proposing to provide demand-side management services.

AEP Energy anticipates undertaking the activities on its own and in conjunction with unaffiliated third parties. The arrangements may take the form of informal and unincorporated consortia. AEP Energy anticipates that any consulting opportunities arising from the arrangements will either take the form of a direct contractual relationship with the end-user of its services, or as a subcontractor working under the direction of a general contractor of a particular project.

AEP now proposes to make additional investments in AEP Energy, through December 31, 1995, in the amount of $5 million for preliminary development activities associated with its consulting business. Investments in AEP Energy may take the form of additional acquisitions of common stock, capital contributions, open account advances and/or subordinated loans (collectively, "Investments"). Any such open account advances or subordinated loans would bear interest at a rate based on AEP's cost of funds in effect on the date of issue, but in no case in excess of the prime rate at a bank designated by AEP. AEP's cost of funds is represented by its commercial paper rating, which is currently rated P–2 by Moody's Investors Services, Inc. and F–2 by Fitch Investors Service, Inc. Recently, on December 10, 1993, AEP sold $64 million of commercial paper notes at a discount rate of 3.28%, for a term of 18 days and maturing on December 28, 1993.

In addition, it is contemplated that AEP Energy may obtain debt financing from unaffiliated third parties consisting of commercial banks, insurance companies or other institutional investors ("Debt Financing"), as long as the total of all Investments together with any Debt Financing does not exceed the total funding authorization of AEP Energy of $5 million. Such Debt Financing may require a guarantee by AEP. Nonaffiliated Debt Financing obtained by AEP Energy will not exceed a term of ten years or bear a floating interest rate in excess of 115% of the prime rate in effect at the time of issuance. In connection with any Debt Financing obtained by AEP Energy, it may be required to pay commitment and other fees not to exceed 25 basis points per annum on the total amount of the Debt Financing. AEP Energy requests an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereof in connection with such Debt Financing.

AEP and AEP Energy also request authority to expand the current scope of financial commitment of AEP to include the issuance of guarantees or assumption of liabilities by AEP on behalf of AEP Energy to unaffiliated third parties in an aggregate amount not to exceed $25 million. These may take the form of performance guarantees or direct or indirect financial guarantees. The Applicants state that such arrangements may be necessary in order for AEP Energy to satisfy a potential customer that it has the financial support for its contractual warranty obligations as may be negotiated as features of specific contracts.

General Public Utilities Corporation, et al. (70–8315)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and its wholly owned non-utility subsidiary company, Energy Initiatives, Inc. ("EII") (collectively, "Applicants"), One Upper Pond Road, Parsippany, New Jersey 07074, have filed an application-declaration under sections 6, 7, 9, 10, 12(b), and 32 of the Act and Rules 45 and 53 thereunder.

EII proposes to acquire a limited partnership interest for $11.5 million in a Canadian limited partnership ("Partnership") being formed to develop, construct, own, and operate a 22.5 megawatt wood and oil fired cogeneration facility in Brooklyn, Nova Scotia, Canada ('Project"). Applicants expect that Polsky Energy Corporation, or a wholly owned subsidiary or affiliate thereof, will be the general partner and a limited partner of the Partnership. Applicants state that the Project will not engage in any retail electric sales, and anticipate that it will qualify as an exempt wholesale generator as defined by section 32(a)(1) of the Act.

EII proposes to secure its equity contribution to the Partnership through an irrevocable letter of credit ("Letter of Credit") for $11.5 million with GPU unconditionally guaranteeing EII's obligations. Alternatively, should the Partnership elect to borrow $11.5 million from lending institutions to provide a portion of the construction financing, GPU proposes to guarantee unconditionally EII's repayment obligations.

Applicants anticipate that the Letter of Credit will expire no later than March 31, 1996 and that any drawings thereon will bear interest at not more than five percent above the prevailing prime rate for large United States commercial banks. Related Letter of Credit fees payable by EII or GPU will not exceed one percent annually of the face amount of the Letter of Credit. Any Partnership construction borrowings guaranteed by GPU in lieu of the Letter of Credit will mature no later than March 31, 1996, will bear interest at no more than 1.5% above the prevailing London Interbank Offered Rate, and will be prepayable by the Partnership as and to the extent provided in the related loan agreements.

Jersey Central Power & Light Company (70–8323)

Jersey Central Power & Light Company 300 Madison Avenue, Morristown, New Jersey 07960 ("JCP&L"), a subsidiary of General Public Utilities Corporation, a registered holding company, has filed a declaration under section 6(a) and 7 of the Act.

JCP&L maintains an insurance policy that provides coverage for workers compensation claims, as required by New Jersey Law. The insurance policy also provides liability insurance coverage for employee claims made directly against JCP&L.

JCP&L has decided to modify the insurance policy so that JCP&L would now be required to pay a deductible for each claim, up to a specified maximum amount for all claims in the calendar year ("Deductible Cap"). While the insurance company would continue to administer and pay all claims as they arise, JCP&L would, on a monthly basis, reimburse the insurance company for the amount of each claim paid up to the deductible amount, subject to the Deductible Cap.

In order to secure its obligations, JCP&L proposes to enter into letter of credit reimbursement agreements with banks and to deliver to their insurance company irrevocable bank letters of credit ("LOC") from time-to-time through December 31, 1998. The insurance company would be entitled to draw upon the LOC in the event that JCP&L fails to reimburse the insurance company.

The LOC would expire not later than December 31, 1998, and would be in the aggregate face amount not to exceed $15 million. Drawings on the LOC would bear interest at not more than 5% above the bank's prime rate as in effect from time-to-time. For example, based on the present prime rate of 6%, the maximum interest rate would be 11%. JCP&L may also be required to pay annual LOC fees which would not exceed 1% of the face amount of the LOC.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–879 Filed 1–12–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 49119 and Order 94–1–3]

Application of Airtrain Corporation for Issuance of New Certificate Authority

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding AirTrain Corporation fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than January 21, 1994.

ADDRESSES: Objections and answers to objections should be filed in Docket 49119 and addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: January 6, 1994.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 94–806 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–62–P

National Highway Traffic Safety Administration

[Docket No. 94–002; Notice 1]

Ford Motor Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Ford Motor Company (Ford) of Dearborn, Michigan has determined that some of its vehicles fail to comply with the labeling requirements of 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, "Controls and Displays," and 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, "Hydraulic Brake Systems," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Ford has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Paragraph S5.2 and Table 2 of Standard No. 101 specify that the brake system display telltale shall be identified with the word "brake" and provide that additional words or symbols may be used at the manufacturer's discretion for the purpose of clarity. In addition, paragraph S5.3.5(c)(1) of Standard No. 105 specifies that brake system indicator lamps shall display the word "brake."

During the period of July 19, 1993 to August 19, 1993, Ford manufactured approximately 40,300 Ranger and Explorer vehicles which, instead of having the brake system telltale identified by the word "brake," it is identified by the International Standards Organization (ISO) symbol. These vehicles were manufactured with instrument panel clusters built by Ford's supplier mistakenly using tachometer assemblies intended for use only on vehicles to be exported to Europe, where the ISO symbol is the required telltale identifier. Ford submitted diagrams of the U.S. and European tachometer assemblies, which are contained in its petition on file in NHTSA's Docket Section.

Ford supports its petition for inconsequential noncompliance with the following:

In Ford's judgement, the condition is inconsequential to motor vehicle safety. The affected Ranger and Explorer brake display telltales illuminate red as required, and except for the missing identifier word "Brake," the vehicles comply with all other applicable FMVSS requirements. Even though "Brake" is not used, Ford believes that the likelihood is remote that a driver of one of the affected vehicles would not recognize illumination of the red-colored brake telltales as an indication of a possible brake system malfunction, principally for three reasons:

(1) * * * [T]he brake system ISO symbol and the parking brake ISO symbol are part of the same brake warning jewel; both are simultaneously illuminated by the same light source. Both identifications illuminate simultaneously every time the parking brake is applied, during the cluster warning lamp function check, and if a brake system malfunction occurs. Because this telltale is illuminated during parking brake engagement and during lamp function checks, an operator is conditioned to associate these two identifiers with "brakes," and therefore their illumination would alert that operator to a possible brake system malfunction (or that the parking brake is applied).

(2) Ford believes that the brake ISO symbol is more widely recognized at present than in the past; use of this symbol in combination with the word "Brake" is common in the majority of vehicles manufactured by Ford Motor Company, and also in many vehicles of other manufacturers, so that the telltale design will satisfy both U.S. and Canadian standards. (Corresponding Canadian standards require the symbol rather than the word "Brake," but also permit both the symbol and word identification.)

(3) The function of the brake warning jewel is fully explained as "a warning light for brakes" in the Owner Guide furnished with each vehicle.

In summary, while the absence of the brake system telltale "Brake" identification on the affected vehicles is a "technical" noncompliance, [Ford believes] that the condition is not a risk to motor vehicle safety because even without the identifier word "Brake," an operator would recognize the illumination of the red brake jewel to be a warning of possible brake system problems. [Ford is] aware of no complaints, accidents, or injuries related to this condition.

Interested persons are invited to submit written data, views, and arguments on the petition of Ford, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 14, 1994.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on January 6, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–807 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94–003; Notice 1]

Ford Motor Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Ford Motor Company (Ford) of Dearborn, Michigan has determined that some of its replacement windshields fail to comply with the labeling requirements of 49 CFR 571.205, Motor Vehicle Safety Standard No. 205, "Glazing Materials," and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Ford has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 205, which incorporates, by reference, the American National Standards Institute's "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways" Z–26.1–1977, January 26, 1977, as supplemented by Z26.1a, July 3, 1980 (ANS Z26.1), specifies that, with certain exceptions, glazing materials for use in motor vehicles shall conform with Paragraphs S5, "Requirements," S6, "Certification and Marking," and ANS Z26.1.6, "Marking of Safety Glazing Materials." Specifically, section 6 of ANSI Z26.1 states "[G]lazing materials, which in a single sheet of material are intentionally made with an area having a luminous transmittance of not less than 70 percent (Test No. 2), adjoining an area that has less than 70 percent luminous transmittance, shall be permanently marked at the edge of the sheet to show the limits of the area that is intended to comply with Test No. 2. The markings shall be A↓S1 or A↑S2 etc. * * *."

Approximately 98,000 W1099V windshields manufactured from June 1992 through October 1993 and 14,800 W911V windshields manufactured from August 1992 to June 1993 are missing the A↓S1 marking at the bottom edge of the shade band. The subject windshields are manufactured as replacements for windshields in 1980 through 1994 model year Ford F–Series and Bronco vehicles.

Ford supports its petition for inconsequential noncompliance with the following:

The affected windshields were produced by a Ford supplier without A↓S1 markings at the bottom edge of the shade band, but meet all other marking and performance requirements of Standard No. 205 and ANSI Z26.1 including the appropriate AS1 marking in the area of the trademark identifying the type of construction of the glazing material.

[Ford believes that t]he omission of the marking presents no risk of accident or injury. Consequently in Ford's judgment, the omission is inconsequential as it relates to motor vehicle safety. The stated purposes of [Federal Motor Vehicle Safety Standard] FMVSS No. 205 are to reduce injuries resulting from impact to glazing surfaces, to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the vehicle windows in collisions. As previously noted, the affected windshields fully comply with the performance requirements of FMVSS No. 205 and although missing the A↓S1 marking at the bottom of the shade band, they do have the correct SA1 marking to indicate the type of construction of the glazing material. Because all performance requirements are met, the omission of the marking at the shade band has no effect upon the ability of the glazing to perform in the manner intended by the standard. Ford is not aware of any complaints, accidents, or injuries related to this condition.

Interested persons are invited to submit written data, views, and arguments on the petition of Ford, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 14, 1994.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: January 6, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–808 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94–001; Notice 1]

Uniroyal Goodrich Tire Company; Receipt of Petition for Determination of Inconsequential Noncompliance

The Uniroyal Goodrich Tire Company (Uniroyal) of Greenville, South Carolina, has determined that some of its tires fail to comply with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires," and 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Uniroyal has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as its relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Paragraph S4.3.3(b) of Standard No. 109 and paragraph S6.5(d) of Standard No. 119 specify that each tire be labeled with an identification number. The last digit of this identification number should represent the year of manufacture.

In the 46th week of 1993, Uniroyal manufactured approximately 6,500 tires in several brands and sizes with an incorrect year of manufacture contained in the tire identification number. The last digit in the identification number on the subject tires is incorrectly marked "4," signifying 1994. The last number should be "3," signifying 1993.

Uniroyal supports its petition for inconsequential noncompliance with the statement that it does not "believe that this error will impact motor vehicle safety since only the year of manufacture is incorrect." All tires are sold only in the replacement market.

Interested persons are invited to submit written data, views, and arguments on the petition of Uniroyal, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The

application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 14, 1994.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: January 6, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–809 Filed 1–12–94; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 6, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0169.

Form Number: IRS Forms 4461, 4461–A, and 4461–B.

Type of Review: Extension.

Title: Application for Approval of Master or Prototype and Regional Prototype Defined Contribution Plan (Form 4461); Application for Approval of Master or Prototype and Regional Prototype Defined Benefit Plan (Form 4461–A); and Application for Approval of Master or Prototype Plan or Regional Prototype Plan (Form 4461–B).

Description: The Internal Revenue Service (IRS) uses these forms to determine from the information submitted whether the applicant plan qualifies under section 401(a) of the Internal Revenue Code for plan approval. The application is also used to determine if the related trust qualifies for tax exempt status under Code section 501(a).

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 1,200.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 4461	Form 4461–A	Form 446–B
Recordkeeping	40 hours 40 minutes	40 hours	5 hours 30 minutes.
Learning about the law or the form	5 hours 2 minutes	4 hours 56 minutes	1 hour 10 minutes.
Preparing the form	6 hours 51 minutes	4 hours 48 minutes	2 hours 14 minutes.
Copying, assembling, and sending the form to the IRS	16 minutes	16 minutes	16 minutes.

Frequency of Response: On occasion (These forms are generally filed only once).

Estimated Total Reporting/Recordkeeping Burden: 120,374 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–850 Filed 1–12–94; 8:45 am]

BILLING CODE 4830–01–P

Sunshine Act Meetings

Federal Register
Vol. 59, No. 9
Thursday, January 13, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 Fed. Reg. 69456, Thursday, December 30, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time), Tuesday, January 11, 1994.

CHANGE IN THE MEETING: The Closed Session of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: January 11, 1994.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 94–1050 Filed 1–11–94; 2:55 pm]

BILLING CODE 6570–06–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Wednesday, January 19, 1994.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (7), (8), and (10).
3. Administrative Action under Section 205 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
4. Requests by Corporate Federal Credit Unions for Field of Membership Amendments. Closed pursuant to exemption (8).
5. Requests by Corporate Federal Credit Unions for Waivers from Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 94–1036 Filed 1–11–94; 2:22 pm]

BILLING CODE 7535–01–M

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [58 FR 648 January 5, 1994].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, December 30, 1993.

CHANGE IN THE MEETING: Deletion.

The following item was not considered at a closed meeting on Friday, January 7, 1994, at 10 a.m.:

Opinion.

Commissioner Beese, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Brian Lane at (202) 272–2400.

Dated: January 7, 1994.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–1009 Filed 1–11–94; 1:12 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [59 FR 1415, January 10, 1994].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, January 6, 1994.

CHANGE IN THE MEETING: Time Change.

The open meeting scheduled for Wednesday, January 12, 1994 at 10 a.m., has been rescheduled for Wednesday, January 12, 1994 at 11 a.m.

Commissioner Beese, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Blair Thomas at (202) 272–2300.

Dated: January 11, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–1064 Filed 1–11–94; 3:53 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 59, No. 9
Thursday, January 13, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-4793-6]

RIN 2060-AD67

National Emission Standards for Hazardous Air Pollutants for Source Categories and for Coke Oven Batteries

Correction

In rule document 93-26162 beginning on page 57898 in the issue of Wednesday, October 27, 1993, make the following corrections:

Appendix A to Subpart L-[Corrected]

1. On page 57924, in the second column, in Appendix A to subpart L, in entry No. 13, in the column designated "Battery", remove "8".

Appendix A to part 63-[Corrected]

2. On page 57926, in the second column, in Appendix A to part 63, in 3.9, in the equation, "L" should read ". . .".

3. On page 57928, in the second column, in Appendix A to part 63, in 5.6.5.2, in (Eq. 303-10), "+ K" should read "+ . . .".

4. On page 57929, in the second column, in Appendix A to part 63, in 5.6.6.2, in (Eq. 303-12), remove "K".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS-42111C; FRL 4047-2]
RIN 2070-AB94

Office of Water Chemicals; Final Test Rule

Correction

In rule document 93-27610 beginning on page 59667 in the issue of Wednesday, November 10, 1993, make the following correction:

§ 799.5075 [Corrected]

On page 59682, in the second column, in § 799.5075(d), in the second line, "December 24, 1993" should "December 27, 1993".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1611-93]
RIN 1115-AB72

Temporary Entry of Business Persons Under the North American Free Trade Agreement (NAFTA)

Correction

In rule document 93-32008 beginning on page 69205 in the issue of Thursday, December 30, 1993, make the following corrections:

1. On page 69210, in the second column, in amendment 5. to § 212.1, in the first line, "(1)" should read "(l)".

§ 212.1 [Corrected]

2. On the same page, in the same column, in § 212.1, in the first line "(1)" should read "(l)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

[T.D. 94–5]

Decision Following Petition by Domestic Interested Party—Location of Country of Origin Marking for Frozen Produce Packages

Correction

In rule document 93-31855 beginning on page 68743 in the issue of Wednesday, December 29, 1993, make the following correction:

On page 68743, in the first column, in **EFFECTIVE DATE:**, in the sixth and seventh lines, "February 11, 1993." should read "February 11, 1994

BILLING CODE 1505-01-D

federal register

Thursday
January 13, 1994

Part II

Department of Transportation

Coast Guard

46 CFR Part 114, et al.
Small Passenger Vessel Inspection and Certification; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 114 through 139, 170, 171, 173, and 175 through 185

[CGD 85–080]

RIN 2115–AC22

Small Passenger Vessel Inspection and Certification

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is revising its original proposal, published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (54 FR 4412) of January 30, 1989, to amend the regulations governing small passenger vessels. This Supplemental Notice of Proposed Rulemaking (SNPRM) contains a complete revision of the proposed regulations affecting small passenger vessels based on the numerous comments received to the NPRM. In this SNPRM, the Coast Guard is proposing significant changes including: The creation of separate regulations for small passenger vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers; alternative requirements to certain lifesaving equipment; greater allowance of non-Coast Guard approved noncombustible materials; and the establishment of new upper limit breakpoints above which a vessel would have to comply with the construction and outfitting requirements applicable to a passenger vessel of more than 100 gross tons. These proposed revisions are expected to minimize the complexity of the original proposed regulation.

DATES: Comments on this SNPRM must be received on or before June 13, 1994.

ADDRESSES: Written comments should be submitted to the Executive Secretary, Marine Safety Council (G–LRA–2/3600)(CGD 85–080), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. Comments may be delivered to and will be available for inspection or copying, and the materials referenced in this SNPRM will be available for examination and copying, at the Marine Safety Council (G–LRA–2), room 3406, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–1477, between 8 a.m. and 3 p.m., Monday through Friday, except holidays. Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: LCDR Marc C. Cruder, Project Manager, Office of Merchant Marine Safety, Security, and Environmental Protection, (G–MVI), phone (202) 267–1181.

SUPPLEMENTARY INFORMATION:

Requests for Comments

Interested persons are invited and encouraged to participate in this proposed rulemaking by submitting written views, data, or arguments on the contents of this SNPRM. Persons submitting comments should include their name and address, reference this SNPRM (CGD 85–080), give the specific section of the proposed regulations to which each comment applies, and include supporting documents or sufficient detail to indicate the reason for each comment. Persons desiring an acknowledgment that their comments were received should include a stamped, self-addressed envelope or post card. This SNPRM may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this SNPRM.

The Coast Guard has determined that the opportunity for oral presentations will aid this rulemaking, and will hold public hearings in New London, CT, Seattle, WA, Tampa, FL, and Chicago, IL. Interested persons who can demonstrate that the opportunity to make an oral presentation at a different location will aid this rulemaking are requested to submit recommendations for hearing locations and dates by writing to the Marine Safety Council at the address under "**ADDRESSES**". Recommendations on the locations and dates for hearings on this rulemaking must be received prior to February 28, 1994. The Coast Guard will announce the times and places of the public hearings by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in the drafting of this proposal are Lieutenant Commander Marc C. Cruder, Project Manager, Commanders William C. Bennett and William P. Cummins, Project Managers Emeriti, and Commander Mark G. VanHaverbeke, Project Analyst, Office of Merchant Marine Safety, Security, and Environmental Protection, and Mr. Nicholas Grasselli, Project Attorney, Office of Chief Counsel.

Background and Purpose

Subchapter T contains the regulations for the inspection and certification of small passenger vessels including construction, outfitting of lifesaving and fire protection equipment, machinery and electrical installations, and operational requirements. The initial regulations applicable to small passenger vessels were promulgated in 46 CFR subchapter T, in the **Federal Register** of 5 October 1957 (22 FR 7949). Subchapter T originally regulated vessels of 65 feet or less in length, measuring more than 15 but less than 100 gross tons, and carrying more than 6 passengers. The last major revision to subchapter T was made in 1963 when the scope of the regulations was broadened to include vessels of more than 65 feet in length, measuring less than 100 gross tons, and carrying one or more passengers (28 FR 9733). Several minor revisions have also been made to subchapter T since 1963.

A NPRM, published in the **Federal Register** (54 FR 4412) of January 30, 1989, contained a proposed revision of subchapter T. A description of the small passenger vessel fleet and detailed reasons for the proposed revision of subchapter T are contained in the NPRM. As part of the proposal in the NPRM to revise subchapter T, the Coast Guard also proposed to revise portions of 46 CFR subchapter S, Subdivision and Stability, which affect small passenger vessels. The NPRM invited and encouraged interested persons to participate in the proposed rulemaking by submitting written comments, including views, data, or arguments, on the proposal by May 31, 1989. By a notice published in the **Federal Register** (54 FR 17997) on April 26, 1989, the Coast Guard extended the deadline for receipt of comments to July 31, 1989, and announced the date and location of six public hearings on the proposed rulemaking.

The Coast Guard received over 300 comment letters on the NPRM providing both support and criticism of the various proposed changes. Of these letters, approximately 80 were received after July 31, 1989. Although received after the close of the officially announced comment period, the Coast Guard considered the comments in these letters in developing this SNPRM.

Most letters contained comments on several different aspects of the proposal. Letters were received from numerous individual small passenger vessel owners and operators as well as private surveyors, boat builders, naval architects, designers, insurance companies, and equipment vendors.

Several associations representing large groups of vessel owners and others involved with the small passenger vessel industry submitted comment letters. Detailed letters were received from the American Sailing Training Association, the International Association of Masters, Mates, and Pilots, the National Association of Passenger Vessel Owners (NAPVO), the National Marine Manufacturers Association (NMMA), the National Party Boat Owners Alliance, and the United States Marine Safety Association, as well as many more regional organizations. Letters were also received from many members of Congress as well as government agencies including the National Transportation Safety Board (NTSB), the Federal Communications Commission (FCC), and Coast Guard Marine Safety Offices and Marine Inspection Offices. Only a few letters could be identified as being submitted by individuals who are not connected with the small passenger vessel industry in some way, except as passengers.

Six public hearings were held on the NPRM in the cities of: Washington, DC; St. Louis, MO; New Orleans, LA; San Francisco, CA; Chicago, IL; and Boston, MA. Over 225 persons attended and 116 members of the public presented their views on the NPRM at the hearings.

An initial analysis of the comments, the proposed rules, and the draft evaluation indicated that some changes to the rules proposed in the NPRM were necessary. The Coast Guard is proposing in this SNPRM to revise the regulations governing small passenger vessels. The Coast Guard originally informed the public of its intent to publish this SNPRM by a notice published in the **Federal Register** (54 FR 38410) of September 18, 1989. This SNPRM substantially changes some sections of the NPRM, and includes provisions not contemplated in the original NPRM. Comments are desired on this modified proposal.

Discussion of Comments and Proposed Amendments

This SNPRM contains a complete revision of the proposed regulations affecting small passenger vessels based on the numerous comments received to the NPRM. Comments which are generally applicable to more than one part of the proposed regulations, such as organization (including the development of a new subchapter K for certain small passenger vessels), specific vessel types, existing vessels, and manning, are discussed under (a) *General Comments*. Significant changes, along with the reasons for the changes, to each regulation in subchapter T and parts 170, 171, and 173 of subchapter S are discussed under (b) *Specific Comments* in numerical order by the section number proposed in the NPRM. To prevent confusion, some of the subchapter K and subchapter T regulation cites are cross-referenced in brackets. An example is: § 175.120 Load lines. (K § 114.120). Where sections proposed in the NPRM have been redesignated, the revised designation is included in parentheses. Additional information on specific regulations, particularly those which have been republished in this SNPRM without any substantial changes from the NPRM and which are not discussed in this preamble, may be found in the NPRM.

Distribution and derivation tables are included at the end of this section of the preamble. The distribution table shows where each section of the existing regulations would be in the proposed regulations in this SNPRM. The derivation table shows where each section of the regulations proposed in this SNPRM originated.

(a) General Comments

Complexity and Organization of the Regulations. Although most comments supported the Coast Guard's efforts to consolidate regulations and policies and reduce inconsistencies, numerous comments were received about the apparent complexity of the proposed regulations. The NPRM incorporated the basic provisions of the International Maritime Organization's (IMO) "Code of Safety for Dynamically Supported Craft," the requirements of Coast Guard Navigation and Inspection Circular (NVIC) 11–83, "Regulations for Very Large 46 CFR subchapter T Passenger Vessels," and other NVICs, the contents of numerous policy letters, and the provisions of the Coast Guard Marine Safety Manual (MSM). The MSM provides guidance to the Coast Guard Officer in Charge, Marine Inspection (OCMI) on the enforcement and interpretation of inspection regulations. Consolidation of these many standards and policies into the regulatory requirements gives the impression that regulations are being increased when, in fact, many of the "new" regulations have long existed as policy. This method also made the NPRM "complex" and hard to use.

In addition, many comments were concerned with the inclusion of regulations for specific vessels not previously addressed in subchapter T, such as Dynamically Supported Craft and vessels with overnight accommodations for more than 49 passengers. Some comments expressed a fear of such regulations "trickling down," i.e., intentionally or unintentionally being applied to smaller, less complex vessels, without a need for such requirements.

The Coast Guard understands the concerns of industry on the complexity of the regulations. Consequently, this SNPRM proposes organizing the small passenger vessel regulations in a significantly different manner. In order to separate requirements for larger vessels from those for smaller vessels, a new subchapter K is being proposed for vessels which, because of their greater size, passenger capacity, and resulting complexity, are beyond the traditional description of a small passenger vessel. In this SNPRM, subchapter T contains the regulations for vessels carrying not more than 150 passengers including vessels with overnight accommodations for not more than 49 passengers. Subchapter K contains the regulations for small passenger vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers. These two breakpoints were chosen for the applicability of subchapter K since more stringent structural fire protection requirements are proposed for any vessels exceeding the two points.

The numbering system and organizational structure of the new subchapter K is designed to parallel the numbering system and structure of subchapter T. This will expedite familiarization with the new subchapter and provide for easy reference between subchapters although they are designed to be used independently of each other without any need for cross-referencing. In subchapter K all requirements for vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers, even if identical to those in subchapter T, will be repeated to prevent the need for cross-referencing. In subchapter T, references to other subchapters were minimized.

The creation of a new subchapter should make the regulations easier to read and understand, and eliminate any fears of an unintentional "trickle down effect."

Except for parts 178 and 179, the general order of parts, subparts, sections, and paragraphs in the proposed subchapters T and K is basically unchanged from the existing subchapter T. However, the outdated numbering system of the existing regulations would be revised to correspond to the revised CFR numbering system.

In a few cases, a section previously included in subchapter T, as proposed in the NPRM, is proposed by this

SNPRM to be included only in subchapter K. Typically this would include sections which are only applicable to vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers.

A comparison of the organization of the two proposed subchapters for use as an index is provided in the following table.

ORGANIZATION OF PROPOSED SUBCHAPTERS T AND K

Subject matter	Subchapter K part no.	Subchapter T part no.
General provisions	114	175
Inspection and certification	115	176
Construction and arrangement	116	177
Intact stability and seaworthiness	N/A	178
Subdivision, damage stability, and watertight integrity	N/A	179
Lifesaving equipment and arrangements	117	180
Fire protection equipment	118	181
Machinery installation	119	182
Electrical installation	120	183
Control and miscellaneous systems	121	184
Operations	122	185

Breakpoints. As with existing subchapter T, the NPRM proposed a graduated system of regulations with generally increasingly stringent requirements as a vessel exceeds certain thresholds or breakpoints. The proposed breakpoints varied, using factors such as total passenger capacity, length, existence of overnight accommodations, number of decks, service, route, and machinery.

The Coast Guard received numerous comments concerning the use of breakpoints throughout subchapter T. The Coast Guard response to comments on breakpoints for specific requirements in the NPRM is discussed throughout this preamble. For example, changes in the criteria used to determine the need for certain survival craft are discussed under part 180 in this preamble.

The NTSB endorsed the use of a graduated system of regulations based on criteria other than tonnage. The Coast Guard agrees with the NTSB and others that the number of passengers carried should be the primary factor in determining safety requirements. However, the Coast Guard has retained the use of a variety of factors to establish the applicability of requirements. For example, the physical size of the vessel is important in determining the standards to be used for hull construction as well as the volume of fire fighting water needed. The practicality of installing subdivision bulkheads is partly dependent on the length of a vessel. The need for survival craft may be influenced by the route of a vessel, i.e., the distance it travels from shore based search and rescue resources.

Several comments stated they had expected more than one major breakpoint based on passenger capacity. The comments expressed a desire for an upper breakpoint such as 600 passengers so that requirements which should only be applicable to very large vessels are not also made applicable to vessels carrying between 151 and 600 passengers. The comments claim that the absence of a passenger capacity breakpoint above the existing 150 passenger point would result in overly stringent requirements for smaller vessels.

The Coast Guard concurs with the need for a new, less complex breakpoint scheme. Breakpoints are needed to limit the ever increasing size, and passenger carrying capacity of vessels which, through the use of various devices in the basic tonnage formulae, are considered small passenger vessels. Under the proposal, the split between subchapter T and K serves as a major breakpoint. Subchapter K contains the following new upper breakpoints for vessels which must comply with subchapter H (Passenger Vessels):

a. Vessels which carry more than 600 passengers;

b. Vessels with overnight accommodations for more than 150 passengers; or

c. Vessels of more than 200 feet in length.

Vessels exceeding any one of these breakpoints because of their capacity or length would still be considered small passenger vessels because of their gross tonnage, but would have to comply with the requirements for construction and outfitting for a passenger vessel (of at least 100 gross tons) presently contained in subchapters H, F (Marine Engineering), J (Electrical Engineering), and S (Subdivision and Stability). The inspection and operational requirements of parts 114, 115, 121, and 122 of proposed subchapter K (corresponding to parts 175, 176, 184, and 185 of subchapter T) would still be applicable to the small passenger vessels which would be regulated by requirements of these other subchapters. Specifically, newly constructed passenger vessels exceeding these breakpoints would be inspected under the requirements for certification that appear in subpart H of part 115. Existing vessels would be grandfathered, as allowed by § 114.110(c)(2).

With the establishment of these breakpoints, application of certain requirements primarily intended for vessels carrying as many as 3,000 passengers could be reduced. This would minimize the so called "trickle down effect" whereby smaller capacity vessels are required to comply with requirements intended for larger capacity vessels. These new proposed breakpoints are also in keeping with the Coast Guard's desire to minimize the complexity of the regulations by minimizing the number of breakpoints and aligning them with the type of vessels which the industry has become accustomed to building and operating as small passenger vessels. The proposed breakpoints were chosen as discussed in the following paragraphs.

Six hundred passengers would be the upper passenger capacity breakpoint for subchapter K. Six hundred passengers is presently used in subchapter S for subdivision purposes. Additionally, industry comments also suggested 600 passengers as the breakpoint for the establishment of regulations for "large type subchapter T vessels." Presently, relatively few vessels less than 100 gross tons (approximately 25) carry more than 600 passengers.

One hundred fifty passengers would be the overnight accommodation capacity upper breakpoint which would trigger compliance with subchapter H.

This is consistent with existing § 177.10–5 which requires vessels carrying more than 150 passengers to comply with structural fire protection requirements of subpart 72.05 of subchapter H which the OCMI determines to be applicable. The Coast Guard considers the provisions of NVIC 11–83 as adequate for vessels with overnight accommodations for between 50 and 150 passengers and proposes to incorporate them into subchapter K. The additional expense of full compliance with the applicable requirements of subchapters F, J, H, and S is not warranted. Presently, there are no small passenger vessels with overnight accommodations for more than 150 passengers. In fact, 138 is the largest number of overnight accommodations on a small passenger vessel of which the Coast Guard is aware.

The 200 foot maximum length breakpoint would help limit the size of small passenger vessels. Although passenger capacity is the primary criterion for evaluating risk, length is another criterion to consider. Vessels under 200 feet may use the American Bureau of Shipping (ABS) Rules for Building and Classing Steel Vessels Under 61 Meters (200 feet) and ABS Rules for Building and Classing Reinforced Plastic Vessels. Lacking a maximum length criterion, it is possible to build a vessel significantly more than 200 feet in length that is less than 100 gross tons and certificated for just under the maximum passenger capacity breakpoint. At least 2 vessels with registered lengths of more than 200 feet and several vessels with overall lengths of more than 200 feet are below 100 gross tons.

The breakpoints between subchapters T, K, and H, as proposed in this SNPRM are outlined in the table below.

BREAKPOINTS FOR APPLICATION OF SUBCHAPTERS T, K, AND H TO SMALL PASSENGER VESSELS

Subchapter T	Subchapter K	Subchapter K[1]
≤ 150 passengers or.	151–600 passengers or.	≥ 601 passengers or
Overnight accommodations for ≤ 49 passengers and.	Overnight accommodations for 50–150 passengers and.	Overnight accomodations for ≥ 151 passengers or

BREAKPOINTS FOR APPLICATION OF SUBCHAPTERS T, K, AND H TO SMALL PASSENGER VESSELS—Continued

Subchapter T	Subchapter K	Subchapter K[1]
≤ 200 feet	≤ 200 feet ...	≥ 200 feet

[1] Vessels in this category would still be small passenger vessels (passenger vessels less than 100 GT), but would be required to comply with parts 72, 75, and 76 of subchapter H, parts 114, 115, 121, and 122 of subchapter K, and the applicable requirements of subchapters F and J.

Specific Vessel Types

Some comments requested specific regulations for other types of vessels, including crew boats, dive boats, party fishing boats, and dinner boats. In fact, the regulations proposed in the NPRM and in this SNPRM do contain some specific regulations for vessels such as ferries, sailing vessels, non-self-propelled vessels, dive boats, and vessels engaged in recreational fishing. Because of the newly proposed split between subchapters T and K, and the removal of the individual requirements for Dynamically Supported Craft (discussed below), the specific regulations for special types of vessels are now very limited in number. The remaining limited number of individual requirements has been retained within the main functional parts of subchapters T and K.

Dynamically Supported Craft

Because of the uniqueness of Dynamically Supported Craft (DSC), the rules proposed in the NPRM contained specific requirements, which vary from those for conventional vessels, for DSC design, construction, equipment, and operation. The DSC regulations and definitions in the NPRM are primarily based on the IMO "Code of Safety for Dynamically Supported Craft" (DSC Code). Recognizing the unique design and operational characteristics of DSC, the DSC Code was developed by IMO to provide a level of safety for DSC on international voyages which is equivalent to that provided by the International Convention for the Safety of Life at Sea, 1974, as amended by the Articles of the Protocol of 1978 and the Amendments of 1981 and 1983 (SOLAS) and the loadline requirements.

The preamble to the DSC Code states that it was developed to allow the design and operation of DSC which take a number of forms. DSC designs include air cushion vessels, hydrofoil vessels, sidewall vessels, and other types of craft essentially within the spectrum existing between ships and aircraft. Many existing regulations were not practicable or sufficient for design or safety reasons. Due to their high speeds, maneuverability, normal dynamic support, aircraft like operations, necessary light weight, and unique machinery, DSC needed alternative requirements. Other vessels, such as certain catamarans, may also have characteristics different enough from conventional displacement vessels, such that, in order for the vessels to safely and properly operate, alternative measures must be used. These characteristics include high speed, the need for a light weight structure, and a planing mode of operation. In order to establish a level of safety equivalent to displacement vessels, the DSC Code contains special provisions in many areas, such as: Advanced methods of design and analysis; weather conditions which might restrict operations; areas of operation; radio communications, evacuation of passengers; rescue services; and vessel maintenance. To prevent piecemeal application of the DSC Code, which might result in a system imbalance that is hazardous to passengers, the DSC Code states that full compliance with all applicable provisions is required if the DSC Code is to be used as an equivalency to the international conventions.

Numerous comments were submitted on both the definition of DSC and the specific requirements proposed for DSC. Three comments stated their support for the proposed rules because the rules would specifically certify DSC, recognize the DSC Code, and clarify what DSC designers must do to meet Coast Guard requirements. However, most other comments did not support the proposed rules regarding DSC, as discussed below. The Coast Guard has reviewed the comments and the intent of the DSC Code, and has consequently made significant revisions to the proposed regulations affecting DSC.

Many comments had various objections to the definition of DSC in the NPRM. Because the provisions of the DSC Code would be incorporated by reference, as discussed below, the Coast Guard's position is that it is important to include the definition of DSC, as specifically contained in the DSC Code, and has done so in § 175.400 (K–§ 114.400) of this SNPRM. The only difference between the definition of a DSC in the IMO Code and the definition proposed in the NPRM was that the definition in the IMO Code (which is the definition proposed in this SNPRM) states that a vessel is a DSC if the vessel is balanced in one mode of operation by other than hydrostatic forces *or* the vessel meets the speed-length formula.

The definition in the NPRM (which no longer applies) was written so that a vessel had to be both dynamically supported *and* meet the speed-length formula. The definition of DSC is now listed alphabetically with the other terms in § 175.400(b) (K–§ 114.400(b)) of this SNPRM. Under this definition, air cushion vessels, hydrofoil vessels, and sidewall vessels (surface effect ships) would be included as DSC, as would many high speed catamarans and high speed monohull vessels which meet the specified speed-length formula and are supported, at least partially, in one mode of operation by other than hydrostatic forces.

Several comments stated the DSC rules should only be applicable to air cushion vessels, hydrofoils, and sidewall vessels, believing that the speed-length formula in the definition unjustifiably results in many high speed excursion yachts, party fishing boats, and catamarans having to meet the requirements for DSC. One comment stated the opposite, indicating that monohull vessels should be considered DSC if they are capable of DSC performance. One comment stated that the DSC definition should be revised to reflect the actual intent of the DSC Code which is to serve as an optional alternative to SOLAS.

The Coast Guard supports the philosophy of the DSC Code and is proposing in this SNPRM that compliance with the DSC requirements should be mandatory for vessels with the design and operations typical of air cushion vessels, hydrofoil vessels, and surface effect ships (i.e., those vessels which have all or a significant part of their weight supported by other than hydrostatic forces). However, the owner of a vessel which meets the speed-length criteria in the DSC definition in this SNPRM should have the option of using the provisions of the DSC Code. The DSC Code could be used to establish an equivalent level of safety if compliance with the regulations for conventional vessels is impossible or may harmfully affect the weight, speed, and other desirable operational characteristics of the vessel. In this SNPRM, vessels with high speed planing hulls or vessels such as fast catamarans, which meet the definition of a DSC, would not be required to comply with the DSC Code but could propose to use the provisions of the Code as equivalent to subchapter T or K requirements under new § 175.540(b) (K–§ 114.540(b)). The Coast Guard's position is that, in general, the provisions of the DSC Code are not suitable for vessels which are not of the light weight construction and do not operate at the high speed typical of DSC. The DSC Code will not be considered equivalent to SOLAS or U.S. Regulations for vessels which do not meet the definition of a DSC.

In this SNPRM, the Coast Guard is proposing to incorporate by reference the provisions of the DSC Code by listing it in § 175.600 (K–§ 114.600).

Owners of any vessel which meets the DSC definition in this SNPRM and which is to be certificated for international voyages will be required to comply with all provisions of the DSC Code, or alternatively, all provisions of SOLAS. This is in keeping with the intent of the DSC Code. Owners of any DSC which has all or a significant part of its weight supported by other than hydrostatic forces (i.e., an air-cushion vehicle, hydrofoil, or surface effects ship) will most likely not be able to meet the requirements of SOLAS, and will have to comply with the DSC Code.

Owners of any vessel which meets the DSC definition in this SNPRM and which will not be certificated for international voyages, would be required to comply either with the DSC Code or subchapter T (or K, as applicable), at the option of the owner. For vessels which meet the DSC definition in this SNPRM, which will not be certificated for international voyages, and which the owners choose to design in compliance with subchapters T or K instead of the DSC Code, the OCMI may require operational controls or additional safety equipment. Under newly proposed §§ 176.110, 177.700(a), 177.800(f), and 184.100(b) (K–§§ 115.110, 116.700(a), 116.800(f), and 121.100(b)), operational controls or additional safety equipment, such as seat belts or radar, which are specified in the DSC Code but which are not specifically required on all small passenger vessels by proposed subchapters T or K, may be required by the OCMI on a case-by-case basis. These proposed sections are included in the specific section discussions later on in this preamble. Because proposed subchapters T and K do not address many operational characteristics of DSC which have all or a significant part of their weight supported by other than hydrostatic forces (i.e., an air-cushion vehicle, hydrofoil, or surface effects ship), compliance with some portions of the DSC Code may be required (i.e., stability and operation in the dynamically supported mode). Owners of these types of vessels also will most likely not be able to meet the requirements of subchapter K, and will have to comply with the DSC Code.

The Coast Guard is revising proposed § 175.540(b) (K–§ 114.540(b)) to state that the Commandant may accept the provisions of the DSC Code as equivalent to the applicable requirements of subchapter T or K. Requests to use the DSC Code as an equivalent would be handled on a case by case basis by the Marine Technical and Hazardous Materials Division at Coast Guard Headquarters, and will be carefully evaluated to ensure that system safety, as envisioned in the DSC Code, is maintained. Where the DSC Code does not have provisions equivalent to specific requirements proposed in subchapters T or K, or where the Code leaves determinations up to the administration, such as the specific wiring requirements in § 183.340 (K–§ 120.340), a vessel would be expected to comply with the applicable requirements in subchapters T or K.

U.S. regulations require all vessels carrying greater than 150 passengers to be of steel or equivalent metal construction, i.e., noncombustible. However, the DSC Code allows the use of other than noncombustible materials provided the administration is satisfied that additional precautions are taken to ensure that an equivalent level of safety is achieved. Longstanding Coast Guard policy is that it is difficult, if not impossible, to make structural vessel components (such as hulls, bulkheads, and decks) of combustible materials (such as fiber reinforced plastic (FRP)) equivalent to metal construction. Therefore, DSC constructed of combustible materials have not been allowed by the Coast Guard to operate in the U.S. carrying greater than 150 passengers.

Because of these changes the Coast Guard has deleted § 176.116 and the specific construction, outfitting, and operational requirements for DSC proposed throughout the NPRM. With the removal of specific DSC requirements, it is not necessary to define the other terms associated with DSC as proposed in the NPRM. Therefore, § 175.400(c) has been removed.

Submersible Passenger Vessels. The regulations proposed in the NPRM did not specifically address the special considerations and operations of submersible passenger vessels. One comment suggested adding structural standards for submersibles. The Coast Guard disagrees. Submersible passenger vessels are still considered novel and unique vessels. As such, these vessels require individual attention and case by case review and approval by the Commandant (G–MVI). At this time there are approximately 7 submersibles certificated as small passenger vessels

which is a very small fraction of the small passenger vessel fleet. A NVIC entitled "Guidance for Certification of Passenger Carrying Submersibles" is being developed to explain Coast Guard policy concerning the limited number of these unique vessels and their operations.

Uninspected Vessels. Numerous comments were received expressing the opinion that uninspected vessels, including uninspected passenger vessels (i.e., those vessels carrying 6 or less passengers), vessels operating under bareboat charters, commercial fishing vessels, and recreational vessels, are less safe than small passenger vessels. These comments opposed any further regulation of the small passenger vessel industry and suggested that any new regulations should apply to uninspected vessels. This opinion encompasses many complex and related issues.

Vessels operating under invalid bareboat charters, or demise charters, are subject to subchapter T, but have long been an enforcement problem for the Coast Guard. The Coast Guard has determined that it cannot legally regulate true bareboat chartered vessels under subchapter T. Therefore, these proposed rules do not address bareboat chartered vessels.

The Commercial Fishing Industry Vessel Safety Act of 1988 (PL 100–424) became law on 9 September 1988. The Act required the Coast Guard to publish safety regulations, develop plans for licensing commercial fishing industry vessel operators, and work with the Marine Board of the National Academy of Sciences to conduct a safety study to determine if fishing vessels require an inspection program. A final rule [CGD 88–079] was published in the **Federal Register** on August 14, 1991 (56 FR 40364). The fishing vessel safety regulations are intended to improve overall safety of commercial fishing industry vessels and are outside the scope of this SNPRM.

The Coast Guard does not agree that recreational boating is an area currently requiring increased regulation. Coast Guard statistics indicate that the number of deaths and injuries resulting from recreational boating incidents are decreasing. There are no plans to promulgate more regulations. Furthermore, recreational boats are beyond the scope of this rulemaking.

Existing Vessels

Parts 177 to 185 (K Parts 116 to 122) contain sections which specify how the requirements in that part apply to existing vessels. An existing vessel means any vessel other than a new vessel. Section 175.400 in the NPRM defined a new vessel as a vessel for which:

(1) The initial construction began on or after the date the regulations would take effect;

(2) An initial Certificate of Inspection was issued six months after the regulations would take effect;

(3) A major conversion was initiated on or after the date the regulations would take effect;

(4) A major conversion was completed for which an amended Certificate of Inspection was issued six months after the regulations would take effect;

(5) Its authorized route was increased by the cognizant OCMI from a route of lesser severity to a route of greater severity; or

(6) The maximum number of passengers it is permitted to carry was increased to above certain specified capacities.

Generally, the NPRM proposed that all new and existing vessels meet the revised inspection and operating requirements in parts 175, 176, and 185. With some exceptions, only new vessels would have to meet the construction and outfitting requirements proposed in parts 177 through 184. New equipment which is not installed to specifically replace existing equipment would have to comply with the revised regulations. Alterations to existing vessels would have to comply with the revised regulations. Replacement of equipment in kind (i.e., with equipment similar to that presently installed on the vessel) or replacement to meet existing requirements applicable to the vessel before the revised regulations take effect, need not meet the revised requirements, with the exception of wiring. Repairs or replacement in kind would normally have to meet the requirements in effect when the vessel was built. However, the owner could choose to meet any revised requirements.

As specified in § 180.15, existing vessels would have to meet the survival craft and EPIRB requirements in the proposed rules within specified time periods. As specified in § 181.115, existing fiberglass vessels would have to meet the requirements in § 181.400 for fixed fire extinguishing and detecting systems. And as specified in § 184.115, certain existing vessels would have to meet the requirements for public address systems and first aid kits within specified time periods.

Numerous comments were received on the applicability of specific proposed regulations to existing vessels. Those comments are discussed in this preamble under the sections on existing vessels in each applicable part, such as § 177.115 or § 178.115. The Coast Guard's response to general comments on the effects of the regulations proposed in the NPRM on existing vessels are discussed immediately below.

Several comments stated that the sections in each part on applicability to existing vessels need to be clarified. The Coast Guard has revised those sections for clarification wherever possible. Several comments suggested that the wording of the sections on existing vessels do not clearly indicate that an owner has the option of complying with the existing regulations or the revised regulations. The introductory sentences of §§ 177.115, 178.115, 179.115, 180.15, 181.115, 182.115, and 183.115 (and the corresponding sections of subchapter K) have been revised to more clearly indicate that, with only a few exceptions, a vessel would have to meet the existing requirements or, as an alternative, the revised requirements.

Numerous parties stated the requirements proposed in the NPRM would have significant effects on existing vessels, because the vessels could not be sold to new owners who want to upgrade the route of the vessel or increase the passenger capacity without significant costs. Some comments specifically proposed eliminating items (5) and (6) of the "new vessel" definition.

Existing vessels may be redesigned to increase passenger capacity or to operate on routes for which the vessel was not originally designed. The intention of the definition of "new vessel" in the NPRM was to require existing vessels which upgraded their capacity or route to comply with the new, more stringent requirements in the revised regulations. Allowing such an upgrade for an existing vessel, with a corresponding increase in risk, and only requiring compliance with the regulations in effect at the time the vessel was originally certificated would be unfair to owners of new vessels. However, the Coast Guard agrees that the proposed definition of a "new vessel" in the NPRM could unfairly affect existing vessels which may be certificated for a lower passenger capacity or a less stringent route than actually designed. Without making any major changes, the vessel may be structurally adequate for a more severe route and meet the existing requirements for greater passenger capacity. An owner may have originally requested the lower capacity or less severe route for equipment outfitting purposes or because the particular planned operations of the vessel did not

necessitate a larger capacity or more severe route.

The Coast Guard is therefore proposing to change the definition of "new vessel" by deleting paragraphs (5) and (6) of the definition contained in the NPRM which referred to increasing the route and passenger capacity on the vessel's Certificate of Inspection (COI). However, to ensure that unfair competition with new vessels does not occur, the Coast Guard is also proposing in this SNPRM to revise the definition of "major conversion" to include a conversion of a vessel that substantially alters the design, scantlings, or arrangement so that the vessel is capable of carrying more passengers, or suitable for operation on a route of greater severity, than for which it was originally built.

Some comments stated that existing vessels should always be grandfathered regardless of changes in construction or arrangement. The Coast Guard disagrees that existing vessels should always be grandfathered. Because statistics show the risk of a casualty is generally greater for an older vessel, the requirements proposed in this SNPRM may be even more important for existing vessels. The proposal in this SNPRM which could have the most significant effect on existing vessels is the requirement for inflatable survival craft on certain vessels. Because survival craft serve as the primary piece of lifesaving equipment aboard a vessel, the Coast Guard believes that existing vessels should comply with these proposed rules. The installation of survival craft on existing vessels is further discussed in this preamble under part 180.

The NPRM proposed that an increase in route severity would necessitate compliance with the revised regulations. One comment stated that the revised requirements should not be applied to a vessel if it moves from one harbor to another harbor. Another comment stated that route severity is not defined. Another comment requested that the Coast Guard confirm that a vessel would not have to comply with the revised requirements if the service of the vessel changes but only if the severity of the route or the number of passengers increases.

These comments may have been made because of a lack of understanding of the phrase "route of greater severity", which is now proposed to be used in the definition of "major conversion." As used in this proposed definition, the term "route" only refers to a general description of the bodies of water a vessel is permitted to operate on, as endorsed on its COI. Routes include, from greater to lesser severity: Oceans; coastwise; Great Lakes; lakes, bays, and sounds; and rivers. Information on the "routes" a vessel is permitted to operate on and a listing of the order of severity of routes is contained in § 176.110 (K–§ 115.110) of both the NPRM and this SNPRM.

A vessel which has its specific area of operation changed from one harbor to another would not normally have to comply with the proposed requirements. Likewise, a vessel which only has its service changed would not normally have to comply with the proposed requirements. Service, as used in regards to the inspection of a small passenger vessel, means the type of operation in which the vessel is employed, i.e., dinner cruises; excursions, including tours, whale watching, or regatta viewing; crew boats; or fishing. Of course, a change of service may require that a vessel comply with some existing or even new requirement specifically applicable to a vessel in the new service. For example, certain watertight doors on a crew boat would have to be removed or permanently sealed if the vessel changed its service.

As proposed in the NPRM, a vessel whose construction began prior to the effective date of the final rule and which is not issued its initial COI prior to six months after the effective date of the final rule, would be considered to be a new vessel and would have to meet all the revised regulations. One comment, representing the Sea Explorers, indicated that an existing vessel which has not yet been certificated should be grandfathered so that it would only have to meet the presently existing requirements. The Coast Guard disagrees. Generally, allowing such existing vessels to meet only the presently existing requirements would provide an unfair advantage over vessels built after the effective date of the new regulations. The MSM presently contains policy on inspection requirements for Sea Explorer vessels which consider their special operations.

As discussed under part 177 of this preamble, changes have been made to the structural fire protection requirements which apply only to vessels proposed to be regulated by the new subchapter K. The Coast Guard anticipates that many existing vessels may want to make use of the wider range of materials allowed for components such as bulkhead and ceiling linings, and carpets. The increased use of fire retardant materials, in lieu of present requirements for noncombustible materials, was based in part on the increased fire protection and detecting requirements in part 118. Owners of small passenger vessels regulated by subchapter K which upgrade the interior furnishings and finishings of their vessels, using the requirements of part 116, would also be required to ensure their vessels meet the requirements of part 118.

Manning

The Coast Guard does not anticipate any revision to the present manning requirements. The regulatory project (CGD 85–080a) to establish new minimum manning requirements for small passenger vessels was withdrawn in January 1990. However, as a result of National Transportation Safety Board (NTSB) recommendation M–89–111, in NTSB's Safety Study of Passenger Vessels Operating from U.S. Ports (November 28, 1989), the Coast Guard plans to include damage stability, emergency steering, and emergency procedures prior to and after grounding on the examinations for master and mate of a small passenger vessel. Also as a result of NTSB's recommendation, fire fighting systems, equipment and regulations, and electronic navigation have been stressed on these examinations.

Americans With Disabilities Act of 1990

The Coast Guard realizes that regulations which will be published to implement the Americans with Disabilities Act of 1990 (Pub. L. 101–336—July 26, 1990) on ferries and other passenger vessels will impact small passenger vessel design and operation. The Coast Guard will be staying abreast of these requirements and will be providing input to the projects.

Miscellaneous Comments

Several comments suggested the Coast Guard should work more closely with industry to reach workable solutions while developing these regulations and specifically stated that an advisory committee or panel was needed for the small passenger vessel industry. The Coast Guard recognizes that an advisory committee for the small passenger vessel industry, similar to the Towing Safety Advisory Committee or the National Offshore Safety Advisory Committee, would provide valuable information, advice, and recommendations concerning the small passenger vessel industry and the maritime field in general. The Coast Guard has not been provided with funding or a legislative mandate to establish an advisory committee for the small passenger vessel industry, and therefore, does not intend to do so. Instead, the Coast Guard will continue to work together with industry in an

attempt to establish cost effective safety requirements. It should be noted that the Coast Guard has considered all comments in the docket and held six public hearings because of its interest in working with the small passenger vessel industry.

Several comments indicated that metric (SI) units were not consistently used in the NPRM. This SNPRM makes some use of metric equivalents. When the final rule is published, metric units will be used, immediately followed by English units in parenthesis throughout the regulations.

Several other comments pointed out that the NPRM did not have an index, while existing subchapter T and other subchapters do have an index. A useful index will be provided in the final rule.

Numerous comments were received stating that the Coast Guard estimated costs for the drug testing regulations were much lower than in actuality. Requirements for drug and alcohol testing of crew members were published as a final rule in the **Federal Register** (53 FR 47064) of November 21, 1988, entitled "Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel." All issues raised by the comments to the subchapter T docket were addressed in that final rule on drug testing and will not be addressed by this SNPRM.

One comment stated that the drug testing regulations should be repeated in subchapter T. The requirements in the drug testing rule were very complex and are presently centrally located in 46 CFR part 16 for applicability to all vessels. It is unnecessary to repeat them in subchapter T.

Many comments were received concerning the use, abuse, and elimination of tonnage measurement loopholes which allow the size and capacity of vessels to be increased while remaining under 100 gross tons. Some of these comments specifically mentioned adoption of the International Tonnage Convention (ITC) or revision of the regulations in 46 CFR part 69—Measurement of Vessels. Part 69 was rewritten and the ITC was adopted as the primary tonnage measurement instrument of the United States in a final rule published in the **Federal Register** (54 FR 37657) on 12 September 1989. Many of the other issues which were raised concerning breakpoints for application of subchapter H are addressed previously in this preamble, under the section on Breakpoints.

One comment stated that the waters defined by a lakes, bays, and sounds route needed to be clearly defined or eliminated. The Coast Guard disagrees. The route categories which appear on a COI (oceans; coastwise; Great Lakes; lakes, bays, and sounds; or, rivers) describe geographical areas which dictate lifesaving and other outfitting needs. Establishing firm criteria for categorizing "lakes, bays, and sounds" routes would be unrealistic due to the large number of variables involved. Eliminating the route would place an undue burden on vessels operating on what are generally considered inland waters because current lakes, bays, and sounds routes would be generally reclassified as coastwise.

The comment also stated that the definitions of oceans, coastwise, Great Lakes, lakes, bays, and sounds, and rivers routes were inadequate and confusing, and went on to suggest that the intact stability criteria definitions for protected, partially protected, and exposed waters should be harmonized with routes found on a COI. The terms protected, partially protected, and exposed are used for stability purposes to describe the sea conditions that a vessel might encounter. While these conditions follow general geographical trends, this is not always the case. For example, a sound is generally considered to be partially protected but may be classified as exposed due to local conditions. Geographic terms are occasionally used for stability purposes, and parallel those used for vessel outfitting, with the exception of oceans. For stability purposes, oceans includes coastwise.

(b) Specific Comments

46 CFR Subchapter S—Subdivision and Stability

Many of the comments received concerning subdivision and stability requirements discussed the effects of the changes proposed in the NPRM, or suggested additional changes, which would affect other classes of vessels, such as passenger vessels of at least 100 gross tons and offshore supply vessels. The Coast Guard Marine Technical and Hazardous Materials Division is currently reviewing stability requirements for all types of vessels under a project entitled "General Revisions to Stability Regulations" [CGD 89–036]. The changes proposed in the NPRM to some sections of subchapter S (§§ 170.090, 170.170, 170.173, 171.050, 171.055, 171.070, 171.076, 171.077, and 171.080) are now being evaluated under the stability revisions project so that the effect that any proposed changes might have on other types of vessels can be considered. Therefore, these proposed changes to subchapter S have been removed from the small passenger vessel SNPRM. All comments received on the applicable subchapter S sections will be considered in the development of proposed rules under the stability revisions project. The Coast Guard anticipates that an NPRM for the stability revisions project will be published this year.

Since publishing the NPRM, the Coast Guard Marine Technical and Hazardous Materials Division has also amended this subpart under a project entitled "Stability Design and Operational Regulations" [CGD 89–037]. These amendments included requirements for stability verification and logging, loading door closure and logging, hull markings, periodic lightship verification, and residual stability for new passenger vessels. These changes were published in a final rule on September 11, 1992, and except for the periodic lightship verification requirements, were effective on December 10, 1992. The effective date of the lightship verification requirements was indefinitely suspended, and is not included in this SNPRM. A comment period was reopened relative to these requirements, with revised amendments due to be published in the near future. The remaining amendments have been incorporated into the SNPRM.

Part 170—Stability Requirements for All Inspected Vessels

One comment proposed that naval architects be allowed to review and certify a vessel's stability as an alternative to Coast Guard review. The Coast Guard disagrees with this proposal. Because of the importance of small passenger vessel stability and subdivision, the Coast Guard has not delegated this function to any classification society or other party. No change was made to the NPRM.

One comment suggested that when evaluating damaged stability, it is inappropriate to limit the maximum draft based on floodable length. Floodable length calculations only need to be done at the same draft and trim as damaged stability and it is often a less severe criteria than damaged stability requirements. No changes were made to the NPRM.

Section 170.050 General Terms

One comment suggested amending the definition of "partially protected waters" to be the same as in proposed § 175.400. The Coast Guard has determined that since this change would affect vessels other than small passenger vessels, implementing the suggestion would go beyond the scope of this project. No change was made to the NPRM.

Section 170.055 Definitions Concerning a Vessel

The proposed rule would allow the Marine Safety Center (MSC) to include underwater projections in the value of "length between perpendiculars (LBP)" to make the application of stability criteria better reflect the buoyancy distribution of a vessel. One comment suggested using a new term to describe the length of a vessel that would include large underwater projections, rather than modifying the definition of LBP. The Coast Guard disagrees because another definition for length would make the regulations more complicated. The use of the term LBP within subchapter S, in sections applicable to small passenger vessels, is sufficient to determine volumes subject to flooding. In these cases, a modified definition of LBP should not create confusion.

The proposed definition of a "small passenger vessel" eliminates those vessels carrying six or less passengers and came from the law (46 U.S.C. 2101(35)). One comment suggested that due to this definition, all small passenger vessels would have to comply with part 170 on stability, and that this would require even small passenger vessels of not more than 65 feet in length to have inclining and hydrostatic curves drawn by a naval architect. This is not true. Proposed § 178.310 permits an owner of a vessel, with only a limited knowledge of stability, to perform a simplified stability proof test, which can be conducted under the supervision of the Coast Guard. The cognizant OCMI has the discretion to determine that certain vessels carrying not more than 49 passengers are not required to undergo this test. Section 178.310 also specifically identifies which vessels must meet subchapter S criteria and which sections are applicable. No changes were made to the NPRM.

Section 170.255 Class 1 Doors; Permissible Locations

This section of the existing regulations contains requirements for Class 1 watertight doors. In the NPRM, no changes to the existing regulations were proposed. Requirements for watertight doors on small passenger vessels were proposed in § 179.330 of the NPRM. One comment suggested current policy on watertight doors should be included in existing § 170.255 and that the requirement for an open/closed indicator in existing § 170.255(e) should apply to class 2 and 3 doors as well. The Coast Guard disagrees. Current policy is being included in proposed § 179.330, which applies existing § 170.255 to small passenger vessels. Remote indicators are already required for class 2 and class 3 doors by existing § 170.270(d). No change has been made to the NPRM.

Part 171—Special Rules Pertaining to Vessels Carrying Passengers

Section 171.010 Definitions

One comment suggested amending the definition of "ferry" in § 171.010(d) to be the same as § 175.400 of the proposed rule. The proposed rules defined "ferry" in § 175.400, using the definition in existing § 175.10–9, except that the clause "having provisions only for deck passengers and/or vehicles" was inadvertently left out. The Coast Guard agrees that definitions should be consistent, if possible. "Ferry" is also defined in 46 CFR subchapter H, "Passenger Vessels", which uses the same definition as existing subchapter T. The definition of ferry in § 175.400 has been changed to what it is in the existing regulation and is now consistent with subchapter H. The definition of ferry in § 171.010(d) has been changed to be consistent with the other subchapters by changing the wording concerning routes in (d)(1) and adding the phrase "short runs" to (d)(3). It is of particular importance to note that the only passengers allowed on ferries are "deck passengers." The term deck passenger generally refers to a passenger for whom no berthing or other accommodation is provided, other than the freedom to occupy allotted deck space, as opposed to cabin passengers. Deck passage is usually limited to short voyages. Berthing is important for stability because berthed passengers sleep in closed compartments. The standard of subdivision for a ferry is much less than that applicable to other passenger vessels. This trade-off demands much less risk, in the form of awake and alert passengers and easy escape routes.

Section 171.035 Intact Stability Requirements for a Sailing Vessel or an Auxiliary Sailing Vessel

The proposed rule would have deleted § 171.035, removing the provisions for a simple proof test for initial stability, taking the position that a simplified analysis of the intact stability was not sufficient for sailing vessels. This would have required the stability of all sailing vessels to be analyzed with the procedures applicable to larger sailing vessels. Four comments expressed reservations with the complete elimination of § 171.035, and questioned if it was intended to subject all sail and auxiliary sail vessels to the requirements for large sail vessels, including inclining experiments.

Since the NPRM was published, the Coast Guard has performed a stability study on sailboats of not more than 65 feet in length. The results showed that the simplified proof test is sufficient for typical arrangements (decked vessels with a cockpit no longer than 0.2L), and ensures a level of safety similar to a more formal analysis, provided downflooding openings are well inboard. Therefore, the requirements in existing § 171.035 have been retained, but placed in new § 178.325.

Section 178.325 contains revised descriptions of hull forms for which the simplified evaluation procedures are not sufficient to ensure that small vessels are stable. The inclusion of this section was most easily and logically made by making some changes and additions concerning sail and auxiliary sail vessels to proposed §§ 178.310 (a) and (b)(2), and inserting a new § 178.330(e) concerning applicability and procedures for simplified stability proof tests. The term "self-bailing cockpit", which is used in proposed § 178.325(d) of this SNPRM, is defined in proposed § 175.400. Proposed § 171.045(f), which would have required all small passenger vessels which are sailing vessels to meet large vessel stability criteria, has been removed.

Section 171.057 Intact Stability Requirements for a Sailing Catamaran

The proposed rules did not address § 171.057. One comment suggested modifying the required heeling moment to account for sail rigs which have a headsail that goes only part way up the mast. The Coast Guard agrees. Recent advances in the design of catamaran mast and sail arrangements have resulted in designs which are unduly penalized because they have a higher than normal mast and use sails that do not go all the way to the masthead. The formulas in this section have been modified to use the height of the center-of-effort of the sail plan rather than the height of the mast. This approach is more realistic than using a height coefficient and more in keeping with the requirements for monohull sailing vessels.

Section 171.085 Collision Bulkhead

The proposed rules did not address the requirements for collision bulkheads in existing § 171.085. One comment suggested that paragraphs (c), (d), and (j) of § 171.085 are incompatible and confusing. The Coast Guard agrees that numerous problems interpreting this regulation have been experienced. The Coast Guard Marine Technical and

Hazardous Materials Division is currently considering changes to clarify this section as part of a regulation project entitled "General Revisions to Stability Regulations" (CGD 89–036) that will update and correct subchapter S in general. An NPRM is expected to be published in the future.

46 CFR Subchapter T

Part 175—General Provisions

Section 175.110 General Applicability

One comment requested that existing Table 175.05–1(a) be updated since it provides a convenient means of determining which inspection subchapters regulate each type of vessel. The Coast Guard's position is that it is not necessary to include the detailed applicability table in the revised subchapter T since proposed § 175.110 is sufficiently clear as to which vessels must comply with subchapter T, and because Table 2.01–7(a) in 46 CFR Part 2, Vessel Inspection, can be used as the entry table to initially determine the inspection subchapter which applies to the various vessel types. Removal of the table from part 175 will simplify the part and reduce volume.

One comment stated that subchapter T should apply to towboats which are permanently or semi-permanently attached to passenger barges since such boats often provide all vital systems for the barge. The Coast Guard has recently decided that the towing vessel portion of an integrated tug/barge combination in passenger service is not subject to inspection as a passenger vessel, unless passengers are allowed aboard the attending towing vessel. The barge itself is inspected as a non-self-propelled passenger barge, and should have all required emergency equipment on board, including, but not limited to, the emergency source of power and all lifesaving and firefighting equipment.

One comment stated the terms "laid up, dismantled, or out of commission", as used in § 175.110(b)(2) of the NPRM, should be defined. These terms are commonly used in industry and the regulations and do not need to be defined. However, § 175.110(b)(2) has been deleted because it is not necessary for the determination of whether a vessel must comply with the small passenger vessel regulations.

Section 175.122 Load Lines

This section identifies which vessels must comply with the load line regulations in 46 CFR subchapter E. This section is provided for the convenience of the reader since subchapter E contains a separate applicability section. The wording of this section is almost identical to that in existing § 175.07–1.

One comment stated the section does not correspond to 46 U.S.C. 5102 (Load Lines—Application) in that it fails to address the applicability of load lines for certain vessels in domestic service. Since subchapter T is only concerned with small passenger vessels, this section only addresses load line requirements for small passenger vessels. Small passenger vessels on domestic voyages are specifically excluded from load line requirements by 46 U.S.C. 5102(b)(11). One comment asked if the Coast Guard was dropping the 100 ton limit for load lines and using length instead. The only breakpoint applicable to small passenger vessels for load lines is 79 feet. The only use of tonnage as a breakpoint under the load line law is that existing vessels of not more than 150 gross tons on domestic voyages need not comply with the applicable requirements. Since all small passenger vessels are under 100 gross tons, there is no need to address the tonnage of vessels in § 175.122.

The proposed rule uses the words "foreign voyage" instead of "international voyages" which is used in existing § 175.07–1. "Foreign voyage" is used since that term is used in 46 U.S.C. 5102. In response to two comments questioning the definitions of foreign voyage and international voyage, the proposed wording was changed to use the wording "voyage other than a domestic voyage" to more closely mirror the law. The law defines domestic voyage as movement of a vessel between places in, or subject to, the jurisdiction of the U.S., except movements involving certain territories, possessions, and Trust Territories. One comment stated that certain vessels will make foreign voyages but not international voyages in order to avoid load line regulations. Under the above definition, any small passenger vessel of more than 79 feet in length, not on a domestic voyage, is required to comply with the load line requirements. The Coast Guard Marine Technical and Hazardous Materials Division is currently considering changes to these definitions under a project entitled "Comprehensive Revision of Load Line Regulations" (CGD 86–013). An NPRM is scheduled to be published at a later date.

One comment suggested referring specifically to part 46 of subchapter E in the section. However, since other parts of the subchapter can also be applicable, the Coast Guard did not adopt this recommendation. Another comment suggested that a provision should be included for exemptions from certain load line requirements under certain circumstances. This is not necessary since there are already specific provisions for exemptions within subchapter E. Since few small passenger vessels will have to comply with load line requirements, there is no need to include detailed requirements and exemption procedures in this rulemaking.

One comment suggested allowing the use of cargo vessel load lines and certificates for small passenger vessels over 79 feet in length, to facilitate international movement while carrying 12 or less passengers. The Coast Guard disagrees. Passenger vessels require a subdivision load line. Only cargo vessels, that is, those vessels which are inspected under subchapter I, Cargo and Miscellaneous Vessels, and which meet all applicable international standards for cargo vessels, including load line requirements, can carry 12 or less passengers on international voyages with a cargo vessel load line.

Section 175.200 Gross Tonnage as Criterion for Requirements

This section in the NPRM, adopted from existing § 175.05–15, states that regulations in addition to or in place of those in subchapter T may be prescribed if the Commandant determines that a small passenger vessel, which has measured under 100 gross tons only because of extensive use of exemptions, reductions, or other devices in the gross tonnage formulation, may be subjected to safety hazards or risks that regulations in subchapter T do not adequately address.

The Coast Guard received many comments on this section. Most comments generally opposed the provision or wanted it to be more specific in regards to additional requirements that might be imposed. As previously discussed in the section of this preamble on Breakpoints, the Coast Guard is proposing to create a new subchapter K and to adopt upper limit breakpoints above which vessels would have to comply with most of the requirements applicable to passenger vessels of at least 100 gross tons (subchapter H). This breakpoint scheme moves away from using gross tonnage as the primary factor in determining applicability of the regulations and should control the continued escalating use of tonnage innovations to stay under 100 gross tons. By proposing the adoption of this breakpoint scheme, the Coast Guard is making the determination that gross tonnage is not a valid criterion for certain vessels, and that passenger capacity or length are the preferred criteria. Because of this

determination, this section has been deleted from proposed subchapter K as unnecessary, but has been left in proposed subchapter T.

Section 175.400 Definitions

This section of the SNPRM revises and expands upon existing § 175.10. Numerous comments were made on this section giving support for centrally locating the definitions, asking for further clarification of already defined words, and asking for additional definitions. Generally, words or terms which, based on Coast Guard experience, may require interpretation have been defined in § 175.400, except that a word that is used only within one section in the subchapter may be defined within that section.

Auxiliary sailing vessel. One comment suggested adding the definition of an auxiliary sailing vessel. Since there are no requirements in this SNPRM for a sailing vessel with auxiliary power (an auxiliary sailing vessel) that do not also apply to a sailing vessel, the term "auxiliary sailing vessel" is not used in the proposed regulations.

Cargo space. One comment stated that "cargo oil tank" and "product or chemical tank" should be deleted from the definition of cargo space since their inclusion wrongly indicates that a small passenger vessel can carry such cargo in integral tanks. The Coast Guard agrees and the noted terms have been deleted.

Coastwise. One comment stated that "coastwise" is not defined as it is used in 43 U.S.C. 1333 and in 46 CFR 46.05–15. "Coastwise" is defined in 43 U.S.C. 1333 for the purposes of U.S. Customs laws, and is defined in 46 CFR 46.05–15 for load lines purposes. Prior to the recodification of 46 U.S.C., the load line law referred to "coastwise." Chapter 51 of 46 U.S.C. now uses the term "domestic voyage." The definition of coastwise used in the NPRM is the definition which has been traditionally used in all vessel inspection subchapters. To change the definition of coastwise used in all inspection subchapters would not be beneficial.

Commandant. One comment expressed concern that under the proposed definition, a marine inspector could be considered an authorized representative of the Commandant. As such, the chain of appeal could be compromised. The Coast Guard agrees and proposes to revise the definition to include only authorized Coast Guard headquarters staff officials.

Corrosion-resistant material. One comment stated that brass should not be labeled "corrosion resistant." One comment stated that stainless steel and monel should be included as "corrosion resistant." Certain grades of brass are more prone to zinc deterioration than other grades. For example, a naval brass installed in a salt water system will provide better service than a lesser grade of brass intended for a lighter duty service. Some grades of stainless steel and nickel-copper (monel) are considered corrosion resistant in marine environments. The NPRM rule has been changed to clarify the meaning of corrosion resistant.

Draft. One comment suggested defining draft from the bottom of the keel rather than the molded baseline, noting that other subchapters use the bottom of the keel as a reference. The Coast Guard disagrees. With one exception, the use of "draft" in this subchapter is for the purpose of describing the buoyant hull in stability calculations, not the depth of a vessel below the waterline or the underbottom clearance. For these purposes, on most small vessels, the molded baseline is a better indicator than the bottom of the keel, especially for vessels with large skegs and keels. The exception is for the draft marks required by § 185.602. No change has been made to the NPRM.

Freeing port. One comment suggested adding "from exposed decks" between "water" and "overboard" in the proposed definition of freeing ports. The Coast Guard agrees this would clarify the definition. The proposed rule has been revised with minor additional changes made to clarify the definition.

Great Lakes. One comment suggested revising the definition of Great Lakes to be consistent with that found in 46 CFR 10.103 in order to avoid confusion. Generally, 46 CFR Part 10 deals with the requirements for licensing of Merchant Marine Officers. The definition in proposed § 175.400 is used for stability concerns and lifesaving equipment requirements, which are independent of 46 CFR 10.103. Although the Coast Guard agrees with the concept of consistent definitions, adopting the Part 10 definition would require some vessels operating on the tributary rivers to meet the higher standards of Great Lakes routes, rather than rivers routes. No change has been made to the NPRM.

Harbor of Safe Refuge. The term "harbor of safe refuge" is used in §§ 170.170, 175.400, 175.530, 176.110, 180.15, and 180.75 of the NPRM. The primary purpose of using the term is to allow reduced stability criteria and an exemption from certain lifesaving equipment for a vessel which is able to travel in a short time to a location accessible to the vessel and where it would be sheltered from a rapidly developing storm which is not forecasted in sufficient time for safe trip-planning. Using local knowledge and information in sources such as Coast Pilots and charts, the OCMI must determine the acceptability of the location of a "harbor of safe refuge" on a vessel-by-vessel basis. This determination normally depends on the vessel's size and evidence that a harbor, port, or anchorage provides satisfactory shelter.

Several comments requested that the term "harbor of safe refuge" be defined to ensure consistent application of the term. The Coast Guard agrees and has proposed a definition in § 175.400 in this SNPRM.

International voyage. The proposed definition in the NPRM for "international voyage" is based on the provisions of existing subpart 176.35. Two comments stated that paragraphs (2) and (3) of the definition, which includes voyages between the continental United States and Alaska or Hawaii, or between Alaska and Hawaii, should be deleted since their inclusion is unfair to vessels in such service and the provisions serve no practical purposes. The inclusion of such voyages as international voyages basically requires any vessel on a trip between the U.S. mainland and Alaska or Hawaii, or both, to comply with SOLAS. Existing subpart 176.35 was first promulgated when provisions of SOLAS 1960 were incorporated into subchapter T in 1965. Voyages from the U.S. mainland to and between Alaska and Hawaii were designated as international voyages in all the vessel subchapters (D, H, I, T) because, when promulgated, it was believed that such voyages were similar in nature to "international voyages" and for safety reasons the increased standards of SOLAS were needed for vessels on such routes.

The Coast Guard agrees that in many cases it may be unnecessary and inequitable for small passenger vessels on voyages listed in paragraphs (2) and (3) of the "international voyage" definition to be required to comply with SOLAS. Under the existing regulations a small passenger vessel can make a voyage from Ketchikan, Alaska to Anchorage, Alaska without having to comply with SOLAS, but the same vessel would have to comply with SOLAS for the shorter, probably safer voyage from Seattle, Washington to Ketchikan. Additionally, under the proposed regulations, a small passenger vessel making the subject voyages would need inflatable survival crafts regardless of SOLAS. One of the primary reasons for previously requiring vessels on the subject voyages to comply with SOLAS was due to the more stringent lifesaving equipment

standards of SOLAS. If adopted, the revised regulations would increase the safety equipment required for vessels, including both inflatable survival craft and fixed fire extinguishing systems, regardless of their need to comply with SOLAS requirements. Therefore, in this SNPRM the Coast Guard is revising the definition of an international voyage to be a voyage to or from a country which is party to SOLAS.

Large. Several comments expressed concern about the use of the word "large" in the NPRM and wanted it defined. The primary concern such persons have is when "large" is used as an adjective for "vessels." In the preamble for the NPRM, the terms "large vessels" or "very large small passenger vessels" are generally used to describe vessels which are bigger than the size of boats which subchapter T was originally intended to regulate. The word "large" is never used in connection with the size of a vessel within the actual regulations in the NPRM or this SNPRM. When separate regulations are proposed for vessels of different sizes, the specific parameters are described such as "a vessel of not more than 65 feet in length with overnight accommodations for more than 49 passengers." The word "large" was used as little as possible throughout this preamble, and when used its meaning is clear within the context of that sentence or paragraph. "Large" has not been defined.

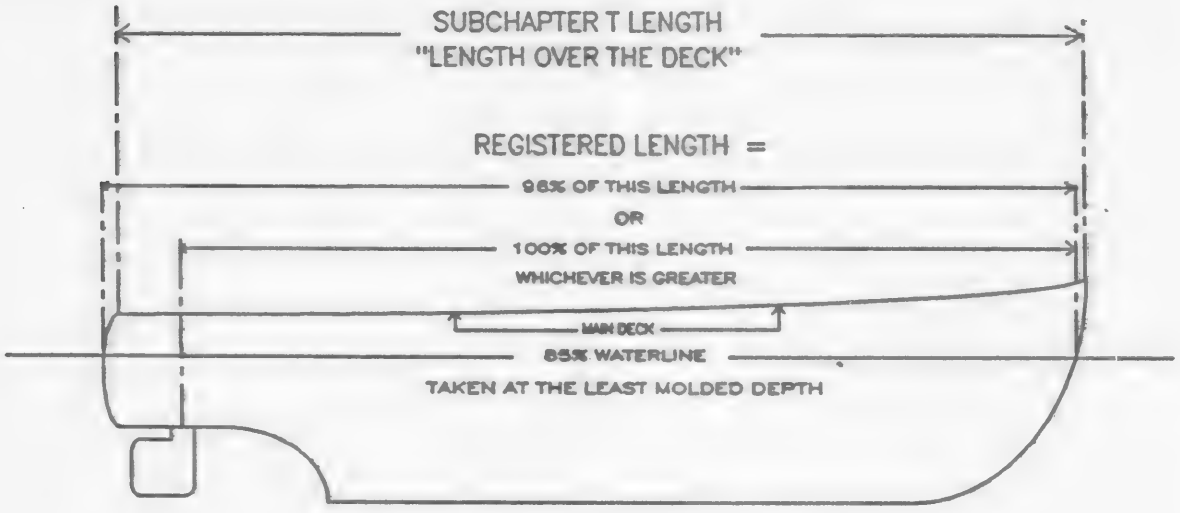
Length. The NPRM defines "length" similar to the definition in the existing regulations except it is more detailed, describes some specific exclusions, and provides a separate definition for subdivision requirements of a vessel with a "bulbous bow." Several comments were submitted on the definition, including requests to be more specific, simplify it, or to redefine it as the "registered length" used for tonnage measurement purposes.

The Coast Guard agrees that the use of "registered length" would provide the simplest, most concise measurement for those requirements whose applicability is based on length. Prior to the passage of Pubic Law 96–378, small passenger vessels were divided into two categories using an overall length of 65 feet as the breakpoint, primarily due to an existing definition of "motorboat" based on length overall. With the current absence of any length criteria in the small passenger vessel law, there is no statutory reason to retain the traditional definition of length.

The registered length of all vessels required to have a Certificate of Documentation is placed in the length block of the Certificate of Documentation. The length "over the deck", measured from end to end excluding sheer, as defined in § 175.10–19, is presently used to determine applicable requirements for small passenger vessels. It is the registered length which is automatically recorded by the MSIS on the COI of an inspected vessel. Under the provisions of 46 CFR part 69 (Measurement of Vessels), which was revised on September 12, 1989 (54 FR 37652), the registered length of a vessel which has an overall length under 79 feet and which is measured using simplified admeasurement, is the overall length defined in 46 CFR 69.203 as the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments. The definition of the registered length for other vessels was adopted from the International Tonnage Convention and is defined in 46 CFR 69.53 as the greatest of either: (1) 96 percent of the length of the vessel on a waterline at 85 percent of the last molded depth; or (2) the length of the vessel from the fore side of the stem to the center axis of the rudder stock on that same waterline. These definitions of length are illustrated in the diagram below.

BILLING CODE 4910–14–P

LENGTH COMPARISON



BILLING CODE 4910-14-C

Vessels which are not issued a Certificate of Documentation under 46 CFR part 69 are normally required to have a Certificate of Number under the provisions of 33 CFR part 173, issued either by the Coast Guard or a State. The length of a vessel, which is defined in 33 CFR 183.3, is recorded on the Certificate of Number. "Length" as defined in 33 CFR 183.3 is, for all practical purposes, the same as the "overall length" defined in 46 CFR 69.203.

The Coast Guard has revised the definition of "length" in § 175.400 of this SNPRM to be the length listed on a vessel's Certificate of Documentation or Certificate of Number. This proposal will make it easier for owners and inspectors to determine the length for vessel inspection requirements. The definition of "length" in subchapters T and K would be consistent with registered length used for measurement and documentation purposes, and with length as used for other vessel inspection and load line requirements.

In making this change to the definition of "length", the Coast Guard realizes that some vessels which measure greater than 65 feet in length using the existing definition might measure less than 65 feet using the proposed definition. However, the requirements in this SNPRM which use 65 feet as a breakpoint are not so critical to safety that a few feet in length will make a difference. The increased use of passenger capacity as a breakpoint and the separation between subchapters T and K helps to limit the apparent lessening of any safety threshold. The Coast Guard solicits additional comments on this proposed definition of "length".

Length between perpendiculars (LBP). One comment suggested changing the definition of LBP to be the same as in 46 CFR 42.13–15(a), which is dependent on the molded depth rather than the draft. This would make requirements which are dependent on the definition of LBP independent of the draft. The Coast Guard disagrees. Small passenger vessels usually have a restricted range of drafts during normal operating conditions, which remains fairly constant for the life of the vessel. No change has been made to the NPRM.

Machinery space. Four comments stated that this definition is too broad because it includes equipment such as oil fired heaters, air conditioners, compressors, and small motors over 10 hp, and that a literal interpretation of the proposal would possibly require overly stringent requirements for spaces with such units. The comments requested specific requirements because the risk is not the same for all included spaces. The Coast Guard disagrees and thinks most OCMI's and marine inspectors will reasonably interpret this and all other regulations. If an owner or operator thinks they are being overburdened by the unreasonable interpretation or application of regulations they can appeal under § 175.540 [K–§ 114.540]. No change has been made to the NPRM.

Oceans. One comment suggested that the Great Lakes be included in the definition of "oceans" based on a perceived similarity in hazard levels. The Coast Guard disagrees that operating environments on oceans and Great Lakes routes are similar. No change has been made to the NPRM.

Operating Station. One comment stated that the definition of "operating station" in the NPRM implies that a licensed individual must actually serve as the helmsman of the vessel. Proposed § 185.304 does indicate that the movement of the vessel must be under the direction and control of a licensed individual at all times, although an unlicensed individual may actually be at the helm physically steering the vessel. However, the Coast Guard agrees that the definition of "operating station" could be interpreted to require the licensed individual to serve as the helmsman. Since this is not the intent, the proposed definition is revised in this SNPRM by deleting the reference to "licensed" individual.

Overnight Accommodations. The terms "overnight accommodations" or "overnight accommodation space" were defined in the NPRM to ensure consistent application of the requirements where the terms are used, including in parts 177, 181, and 185. Two comments recommended that the term "berthing area" be used instead of "overnight accommodations." The Coast Guard disagrees. The term "overnight accommodations" was adopted from NVIC 11–83 and is commonly used. "Overnight" modifies "accommodation space" which is defined separately in § 175.400 and which is commonly used throughout the inspection regulations.

One comment stated that the last sentence of the proposed definition in the NPRM concerning seats contains a contradiction. This sentence has been shortened and clarified in this SNPRM.

Some comments expressed the concern that the definition of "overnight accommodations" in § 175.400 would adversely affect fishing party vessels or headboats. Some of these vessels leave at 10 P.M. or midnight and passengers sleep in their seats while the vessels are underway to their fishing spots. The definition of "overnight accommodations" in this SNPRM specifically allows this practice.

Pontoon boats. One comment suggested adding the definition of a pontoon boat to this section. The Coast Guard disagrees because the term "pontoon boat" is well understood and sketches of a typical pontoon vessel are located in proposed § 178.340. No change has been made to the NPRM.

Sailing vessel. One comment suggested deleting the word "principally" from the definition of sailing vessel since it might be argued that sails of sail-assisted vessels are not the principal means used to propel the vessel. The Coast Guard disagrees because the issue is the difference between vessels intended to be normally powered by sail and those normally powered by mechanical means, a distinction which is normally quite clear with small passenger vessels. A small passenger vessel is either a motor vessel, or a sailing vessel (which includes a sailing vessel with an auxiliary engine), and cannot be a motor vessel with auxiliary sails, as is the case with some recent innovations on large cargo ships trying to reduce costs. Subchapter S will still define and use the term "auxiliary sailing vessel" for specifying requirements for vessels to which Subchapter S applies. No change has been made to the NPRM.

Scupper. Although no comment was received concerning the definition of a scupper, it was modified to more clearly differentiate it from a freeing port. A scupper is a drain opening in a deck, whereas a freeing port is an opening in the sideshell or hull of a vessel.

Switchboard. One comment stated that the definition of "switchboard" should be clarified. The Coast Guard does not agree. The definition for switchboard in § 175.400 is accepted as the national standard found in ANSI/IEEE Standard 100–1977.

Weathertight. One comment stated that, in the definition of this term, the phrase "into the unit" can be deleted without changing the intent. The term "weathertight" can apply to a machinery component, or a compartment or closure aboard a vessel. The phrase "into the unit" does not necessarily clarify the definition and has been deleted. The intent of the regulation does not change.

Well deck. One comment suggested modifying the definition of well deck to describe an exposed recess in the weather deck with sides which are not common with the sideshell. The Coast Guard disagrees. Whether the sides of the recess are common with the sideshell (in which case they are bulwarks) or not, does not affect the

concept of a well deck. No change has been made to the NPRM.

Section 175.500 Conduct of an Inspection for Certification

This section in the NPRM is almost identical to existing § 175.20–1 and discusses the time, place, and persons present during an inspection. One comment stated that this section should be moved to Part 176, Inspection for Certification. The Coast Guard agrees and proposes in this SNPRM to move the contents of paragraphs (a) and (b) of § 175.500 to new paragraphs (b) and (c) of § 176.400.

Section 175.510 Notice of Deficiencies and Requirements

The wording of this section is basically identical to existing § 175.20–5 and discusses procedures for a marine inspector to point out deficiencies to the owner of a vessel. Two comments stated that, for consistency, the parties listed in §§ 175.500 and 175.510 as being responsible for arranging and being present at inspections and for receiving notification of outstanding inspection deficiencies should be the same. The Coast Guard agrees and has revised paragraphs (a) and (b) of both sections in this SNPRM by listing the responsible parties as "the owner, managing operator, or a representative thereof."

One comment stated that this section should be in subpart D of part 176. The Coast Guard agrees that it would be more appropriate for the section to be in part 176, which contains specific inspection requirements, but is proposing in this SNPRM to move it to subpart H of part 176, which discusses inspection standards and requirements for all types of inspections, whereas subpart D specifically addresses inspections for certification.

Section 175.530 Alternative Standards

One comment stated that the equivalencies allowed by the NPRM for DSC's should also be allowed for other small passenger vessels. In fact, § 175.530, Alternative standards, in the NPRM specifically stated that the owner of a vessel which does not meet the definition of a DSC may request that the vessel be certificated under the regulations applicable to DSC providing the vessel complies with the same operational restrictions imposed on DSC. The NTSB stated that a vessel which is not a DSC should not be allowed to comply with the DSC requirements, especially reduced structural fire protection requirements, since it would represent an unjustified, increased risk for passengers. In consideration of the changes proposed to the regulations affecting DSC, discussed in this preamble in the section on "Specific Vessel Types," the Coast Guard has not included § 175.530 in this revised SNPRM. However, under both existing § 175.15–1 or proposed § 175.540(a), any owner may request that the Commandant accept in substitution for a required arrangement, fitting, appliance, apparatus, equipment, calculation, information, or test an equivalent that is as effective as that required by the regulations and is consistent with the intent of and the minimum safety standards specified in the regulations.

Section 175.540 Equivalents

As in the existing § 175.15–1, this section would allow the Commandant to accept substitutes for an arrangement, or items such as a fitting or piece of equipment, required by specific regulation. Numerous comments stated that the OCMI should have the authority to grant equivalencies (at least to some degree), waive requirements under special circumstances, or evaluate and adjust applicable rules to make each vessel safer. These comments stated that the process of the Commandant granting an equivalency may be too slow and cumbersome, and might prevent adjustments for the uniqueness of operations in various areas. The Coast Guard's position is that the Commandant should normally remain responsible for the granting of equivalencies, primarily to ensure more consistent application and interpretation of the regulations. Section 175.550 authorizes the OCMI to grant limited equivalencies under special circumstances. The Commandant's review of equivalency requests may be occasionally delayed due to a backlog of work, but if requests are properly documented and justified by the owner, and submitted during the normal plan review process, requests for equivalencies can normally be acted upon by the Commandant before the review of all the vessel's plans are complete.

Section 175.550 Special Consideration

As presently allowed by existing § 175.25–1, this proposed section would allow the OCMI to grant equivalencies but only in unusual cases when compliance with a specific regulation is not practicable. Such special equivalencies would only be valid within the zone of the OCMI who granted the equivalency. One comment stated that the authority granted to the OCMI by this section contradicts those sections which restrict equivalency authority to the Commandant. The comment stated that the OCMI should have full equivalency authority in all cases. The Coast Guard disagrees. This provision has been retained for those unusual cases where it may be necessary for the local OCMI to have the discretion to act. However, one of the primary purposes of this revision is to reduce the inconsistent application of the regulations among marine inspection zones. This is especially important with the large number of vessels moving from zone to zone or being built in one zone for operation in another zone. Therefore, it is necessary that the Commandant retain the general equivalency authority contained in § 175.540.

Several comments stated that equivalent arrangements or departures from regulatory requirements allowed in one zone should be accepted in any other zone. The Coast Guard disagrees. This would increase the inconsistent application of the regulations from one zone to the next, rather than decrease it. An arrangement which might be safe in one port, zone or geographic area may not be safe in another. If an owner or operator thinks that a vessel will be operating in more than one zone during its life, he or she should apply to Commandant for an equivalency determination, rather than to the OCMI for special consideration.

Another comment recommended that any special consideration allowed under this section should be endorsed on the COI. The Coast Guard agrees that this is necessary for both the owner's and Coast Guard's information. Section 176.103 has been revised in this SNPRM by requiring that equivalencies be recorded on the COI.

Section 175.600 Incorporation by Reference

This section of the proposed rules lists industrial and government standards, that are incorporated into subchapter T by reference, as the governing requirements for certain subject matters. The standards are cited within specific sections throughout the subchapter dependent on the subject matter. Section 175.600 is provided in accordance with **Federal Register** procedures and lists all incorporations by reference throughout the subchapter including an address from which an interested person could receive a copy of a particular standard. Use of standards reduces cost to the Coast Guard and industry by decreasing repetitiveness, and making product specifications common throughout industry. Use of standards also increases the quality and safety of products and systems.

One comment stated that the large number of references incorporated in the NPRM made the proposal too complex and that most owners do not hold the required references. The Coast Guard disagrees that incorporating references will make the regulations too complex. Incorporating by reference actually reduces the volume of necessary regulations. Most references specify standards which must be complied with during construction. Therefore, providing the vessel is maintained as originally constructed, normally only builders need to have copies of the applicable references. Standard 302 of the National Fire Protection Association (NFPA) and some American Boat and Yacht Council (ABYC) projects do contain some operational practices.

The proposed incorporation of the standards listed in § 175.600 [K-§ 114.600] complies with the Office of Management and Budget's Circular 119, "Federal Participation in the Development and Use of Voluntary Standards," which requires the Coast Guard's participation in the development and use of voluntary standards. Further information on the incorporation of standards is contained in a final rule on the "Incorporation and Adoption of Industry Standards" (CGD 88–032) published in the **Federal Register** on 29 July 1991 (56 FR 35817).

When referring to a specific incorporation by reference in § 182.130, one comment stated that the date of publication of the standard should be included. The Coast Guard agrees that it is important to include the date of publication for any standard being incorporated by reference. This is necessary since later editions of a standard may contain changes which the public should have an opportunity to comment on before being required to comply with the change. To simplify any necessary future changes, the date of publication of an incorporated reference is listed in § 175.600, either as part of the title of the standard (e.g., A 17.1–1984) or separately, instead of being included in the section where the standard is specifically referenced.

One comment stated that whenever a standard is referenced to establish a construction or operational requirement, the standard should include a definitive test method for determining compliance with a performance standard. The performance standard would be better than an installation standard and ensure consistency. The test standard should come from an organization like the American National Standards Institute (ANSI). Other than this comment, there was minimal feedback from industry questioning the adequacy of the standards proposed to be incorporated. These standards were chosen because of their histories of successful application, and provide an adequate level of safety while minimizing hardship to the industry. Many of the standards include or reference test methods, but some do not. Equipment which is built to installation or construction standards which do not have specific test methods is tested after installation, during system tests. No change was made to the NPRM as a result of this comment.

Several persons had comments on specific standards incorporated by reference in the proposed Subchapter T in the NPRM or recommended the incorporation of other standards. The Coast Guard response to such comments is included in the discussion on the particular section to which the reference is relevant.

Part 176—Inspection and Certification

Section 176.100 When Required

This section reiterates the provisions of 46 U.S.C. 3311(a) and 3313(a) that a small passenger vessel not be operated without having a COI and that during the term of the COI a vessel must remain in compliance with the conditions of the COI. Several comments objected to this section stating it was too restrictive and would significantly affect owners. This section cannot be substantially changed since it reiterates statutory requirements. Section 176.114 would provide relief to owners who desire to change service and remain certificated. Proposed § 176.100(b) has been revised to clarify that compliance with a vessel's COI is only required when passengers are aboard. A discussion under § 176.114 in this preamble explains the history and reason for both proposed §§ 176.100 and 176.114.

One comment stated that the word "operated" as used in § 176.100(a) would generate many problems and that the phrase "in navigation" should be used instead. The Coast Guard disagrees in that the use of the term "in navigation" would indicate that compliance with the COI would only be required when a vessel is actually underway. Legislative and regulatory history indicates that Congress did not use the term "operated" to mean only when underway but to include whenever the vessel is in use. Consistent with this interpretation, for the purposes of small passenger vessels, the Coast Guard has determined "operated" to mean whenever a small passenger vessel is underway or has passengers on board even if moored or tied up at a dock.

One comment recommended eliminating the reference to a temporary COI in § 176.100(c) because, especially with the Coast Guard's MSIS system, there is no need for a temporary COI. The Coast Guard understands the concern over a temporary COI in that it does not contain as much information as a regular COI. However, due to the administrative logistics of issuing a COI, it is often not possible to issue a complete, regular COI upon successful completion of an inspection for certification. The law in 46 U.S.C. 3309 specifically authorizes a temporary COI and House Report No. 98–338 concerning Public Law 98–89, addresses temporary COIs by stating: "* * * The Coast Guard can issue a temporary Certificate of Inspection upon compliance with the applicable laws or regulations to facilitate the preparation, processing, and forwarding of the regular COI to the vessel." A temporary certificate does not imply less than satisfactory compliance.

Section 176.103 Description

Proposed § 176.103, adopted from existing § 176.01–5, describes the minimum contents of the COI with other sections in subpart A of part 176, which expand on the required contents. One comment stated that an effort should be made to reduce COIs to one page so masters would be more likely to read them. An MSIS generated COI is designed to contain all the basic information on the first page but often additional information is necessary to describe the inspection status of the vessel. Coast Guard experience demonstrates that it is important to have all the vital inspection information for a vessel on one document rather than spreading such information over several documents. The OCMI normally records information on the COI as concisely as possible. It is the duty of the owner or managing operator to ensure that masters are familiar with documents such as the COI, Stability Letter, and Emergency Procedures.

The Coast Guard is proposing to revise § 176.103 by adding, as a required item on a COI, any equivalencies allowed for the vessel under §§ 175.540 and 175.550. This is to help ensure that masters, owners, and inspectors are aware of the equivalencies.

Section 176.105 How To Obtain or Renew

This section describes how to apply for a COI and the basic acceptance criteria for issuance of a COI.

One comment stated that this section should be revised to require a vessel to be inspected in the zone in which it

normally operates, at the discretion of the OCMI. The Coast Guard disagrees that the proposed restriction is necessary. In modern operations, small passenger vessels frequently are built in one zone, operate in another, and seek economical repair facilities in a third. It would be an administrative burden to the Coast Guard and owners to require inspection in one certain zone. A primary purpose of this rulemaking is to reduce inconsistencies among OCMIs. As a result, the advantages of an owner seeking out specific OCMIs will be minimized. Presently, through the computerized MSIS, all OCMIs are able to record and track unique inspection requirements and other problems, as well as whenever a vessel has applied for an inspection. The MSIS record is checked prior to inspections, and unusual inspection patterns are noted. Additionally, some vessels are limited to operations in specific geographic areas. Coast Guard policy already dictates that when a vessel is being inspected outside of its normal location, the attending OCMI contact the other zone to check on unique problems or requirements. Finally, the person completing the application for inspection is required to certify on CG Form 3752 (Revised 4–82) whether a previous application was made for the particular inspection.

One comment stated that a paragraph should be added to this section reiterating 46 U.S.C. 3309(c), which requires that an owner notify the OCMI between 30 and 60 days before the current COI expires whether or not the vessel will be required to be inspected again. This recommendation has not been adopted since the requirements of 46 U.S.C. 3309(c) are adequately addressed in 46 CFR 2.01–3. In addition, owners or operators with accurate addresses on file at the offices of the OCMI which issued their current COI receive a "reminder" letter to let them know the COI is about to expire, asking them to contact the appropriate OCMI.

Section 176.107 Period of Validity

The Coast Guard proposed in this section to make a COI valid for three years on all small passenger vessels, except for vessels with SOLAS certificates. Annual reinspections would be required on all vessels. Many comments supported this proposal indicating it will reduce paperwork.

One comment objected to the requirement that the COI of a vessel which also has a SOLAS certificate shall be valid only for a period of one year stating that this requirement creates a burden on both the Coast Guard and the owner. The Coast Guard agrees and is proposing to eliminate the one year COI provision for vessels with SOLAS certificates. This elimination should reduce some administrative time without any decrease in safety. Annual SOLAS surveys and drydockings will still be required by SOLAS for a vessel with an international route.

One comment stated the COI interval should be extended to five years to coincide with other intervals. However, 46 U.S.C. 3307 requires that the interval be a maximum of three years.

One comment complained that requiring completion of an inspection for certification before the current COI expires results in the inspection due date constantly advancing (inspection date creep) often into a busy operational season. The Coast Guard acknowledges that inspection date creep can be a problem which is best handled on a local level by the OCMI. Due to the 3 year statutory inspection requirement, a regulatory change cannot be used to directly address the issue. Presently, inspection date creep is probably only a significant problem for vessels of more than 65 feet in length, because of the present 1 year COI expiration date for these vessels. However, the inspection interval of 3 years proposed for all vessels in this SNPRM will diminish the problem. The inspection due date would only creep back every 3 years, as opposed to every year.

Section 176.110 Routes Permitted

Proposed § 176.110 in the NPRM is basically the same as existing § 176.01–20 and specifies the type and order of severity of routes which may be endorsed on a COI. Based on a perception of the relative hazards of these waters, one comment suggested reordering the severity of routes in paragraphs (a) and (d) to: Great Lakes winter; oceans; Great Lakes summer; coastwise; lakes, bays, and sounds; and rivers. The Coast Guard disagrees. For stability purposes, a general coastwise route is more severe than a Great Lakes summer route. The requirements proposed in this SNPRM for survival craft and EPIRBs to be carried aboard small passenger vessels on Great Lakes routes do not support treating Great Lakes routes as oceans. The section of the regulations concerning lifesaving equipment is the only section where Great Lakes requirements are on a par with, or more stringent than, a coastwise route. The NPRM has not been changed.

One comment stated the safety requirements for vessels with a Great Lakes route should be no more severe than those for vessels with a lakes, bays, and sounds route. The comment contended that the NPRM equates Great Lakes routes with coastwise routes although the listed order of severity is: oceans; coastwise; Great Lakes; lakes, bays, and sounds; and rivers. The comment stated that the use of vessels on the Great Lakes for excursions (dinner cruises and tours for example) and short ferry runs is more equivalent to lakes, bays, and sounds route operations because of near shore operation and fair weather, and because the summer schedule generally avoids Great Lakes winter weather problems. The comment noted that the proposed stability criteria designated the Great Lakes route during the summer season as being partially protected. For stability purposes, a general coastwise route is more severe than a Great Lakes summer route. For some safety equipment purposes, the water temperature, geographic location, and other factors make operating conditions similar enough that the Coast Guard considers the same safety equipment necessary for coastwise and Great Lakes routes.

One comment stated that the OCMI should be able to approve an "oceans" or "coastwise" route for a non-self-propelled vessel, contrary to paragraph (e) which limits this authority to the Commandant. The Coast Guard disagrees. Because of the very limited experience with passenger carrying seagoing barges, the Coast Guard has not developed specific regulations for such operations. Authorization for such operations should remain with the Commandant to ensure consistent application of necessary special provisions.

One comment suggested including Great Lakes with oceans and coastwise in paragraph (e) of this section, as routes where a non-self-propelled vessel may operate only with the approval of the Commandant. The Coast Guard agrees in part. Possible bad weather conditions to which a barge-type vessel might be exposed warrant consideration of this comment. A particular concern is that a tug should be able to maintain control of a passenger barge under all conditions. The Coast Guard considers this suggestion reasonable for vessels on Great Lakes winter routes, where control of a barge might be more difficult. Including Great Lakes routes in this paragraph would allow the Commandant to approve the routes for all non-self-propelled vessels which operate on exposed waters. The proposed rule has been changed in this SNPRM.

One comment suggested not using geographical points as references for determining routes to help eliminate inconsistencies and noted that licenses

for Masters no longer refer to geographical points. In general, the Coast Guard advocates not using geographical limits, to the extent practicable. However, the OCMI should have flexibility to address special circumstances and the wide variety of routes which exist. The Coast Guard thinks this proposal would be too rigid. No change was made to the NPRM.

One comment stated that the geographic experience of the master should be considered before a vessel is allowed to operate on a route which is less severe than that endorsed on the COI, as authorized in paragraph (d). The Coast Guard agrees but finds that the existing licensing and manning regulations adequately address this concern.

The Coast Guard is proposing to amend paragraphs (a) and (f) of § 176.110 by emphasizing that the OCMI may impose operational restrictions on a vessel as well as specify the area of operation, i.e., its route. OCMIs presently impose such restrictions including limiting a vessel to daytime operations or prohibiting operations in certain weather conditions. The OCMI may also impose special operational restrictions on specific vessels on a case by case basis such as requiring high speed DSC to participate in vessel traffic control systems, maintain radar watches, or follow specific procedures regarding operating in the dynamically supported mode.

Section 176.113 Passengers Permitted

This section in the NPRM contains provisions basically identical to those contained in existing § 176.01–25, except that areas specifically prohibited from being used in determining passenger capacity are included.

Two comments implied that the proposed standards result in overcrowded and dangerous conditions. Although the standards may sometimes result in comparably crowded conditions, the Coast Guard has no evidence that the proposed methods of determining maximum capacity, which are essentially the same as those contained in existing § 176.01–25, are unsafe. The OCMI is responsible for determining the maximum capacity of a vessel. Although the capacity may not exceed the criteria of proposed § 176.113, the OCMI must also consider the stability, general arrangement, means of escape, and lifesaving equipment of a vessel when limiting a vessel's capacity.

One comment stated that on party fishing boats used in cold weather, the capacity should be based on the area available in heated spaces. Generally, due to competition and passenger demand, most vessels used in cold weather will be equipped with adequate shelter without a need to impose specific requirements. Passengers boarding small passenger vessels to fish in cold weather should be prepared for such weather.

One comment stated that the criteria in this section should only be used to determine the overall maximum passenger capacity of the vessel and not to specify the maximum capacity of each individual deck. The comment further stated that stability calculations should be used to determine limitations on passenger capacity of individual decks, and that it is difficult and unreasonable to require a master to keep track of the numbers of passengers on each deck. The Coast Guard partially agrees. Although different criteria might be used for each deck, the provisions of § 176.113 are intended to be used to determine the total vessel capacity. However, stability calculations may additionally restrict the number of passengers on a vessel or on individual decks. If the number of passengers permitted on upper decks is limited by stability calculations, a master must comply with the restrictions of the stability letter, and signs would have to be posted as proposed in § 185.602(e) of the SNPRM (§ 185.602(d) of the NPRM).

Some comments stated that the regulations should be clarified to indicate whether more than one criterion may be used to determine capacity. Several comments stated that the passenger capacity should be determined based on a combination of all three criterion. The Coast Guard agrees that the section needs to be clarified to better indicate when more than one criterion may be used. This section has been revised in this SNPRM to allow the use of different criteria on each deck and to also allow the combined use of the seating criterion and the deck area criterion on an individual deck. The length of rail criterion cannot be combined on one deck with the other criteria since the rail criterion is designed to determine the capacity for a complete single deck and is based on only a single dimension. The other criteria use square footage or a combination of maximum seat width and aisle sizes.

The Coast Guard is also proposing to revise paragraph (b)(2) of this section to prohibit using any area that does not have a solid deck when using the deck area criterion in determining the number of passengers. The need to include this prohibition was highlighted by an appeal whereby an owner of a multi-hull vessel believed that he could allow passengers to occupy the netting area between the hulls when the vessel is underway. For sound safety reasons, OCMIs have generally prohibited such a practice.

Section 176.114 Special Endorsement for Carrying Six or Less Passengers

The regulations proposed in the NPRM authorize the OCMI to permit a small passenger vessel to operate in accordance with the laws and regulations applicable to an uninspected vessel, when the small passenger vessel is carrying six or less passengers, by endorsing the vessel's COI. Under the NPRM proposal, the vessel would not have to comply with the route restrictions and manning requirements on the COI while operating as an "uninspected vessel", but the equipment required to be on the vessel by the COI would have to remain aboard and inspection due dates would still have to be met.

Paragraph (b) of existing 46 CFR 176.01–1 states that a small passenger vessel of not more than 65 feet in length "when carrying not more than 6 passengers, and when operating as a yacht, commercial fishing vessel, cargo carrier, etc., will be subject only to the laws, rules and regulations governing the type of operation in which it engages." This provision allowing a certificated small passenger vessel of not more than 65 feet in length to operate basically as an uninspected vessel has been in subchapter T since the regulations were first promulgated in 1957. This provision appears to have been included in the regulations to provide a mechanism to allow owners to easily switch service. For example, an owner could use a boat for commercial fishing in the winter and for party boat fishing in the summer, which has been common practice since before small passenger vessels were first regulated. However, there appears to be no evidence in the legislative history of the laws affecting small passenger vessels which supports 46 CFR 176.01–1(b). There have also been several challenges to existing § 176.01–1(b) due to the requirement of 46 U.S.C. 3313, which states that a vessel must be in compliance with its COI at all times.

The Coast Guard recognizes the inconsistencies between 46 U.S.C. 3313(a) and 46 CFR 176.01–1(b) and also recognizes that the statute requiring compliance with the COI at all times takes precedence. Because of this longstanding inconsistency, the Coast Guard's present policy is not to take any enforcement action against the owner/operator of a small passenger vessel of not more than 65 feet in length carrying

not more than six passengers, which is being operated as if it were an uninspected vessel, until the existing regulations have been revised.

Proposed § 176.100(b) clearly states that all small passenger vessels must be in compliance with their COI at all times as required by 46 U.S.C. 3313(a). However, proposed § 176.114 is intended to provide a legal alternative to this restriction. Proposed § 176.114 would:

(1) Allow small passenger vessels to remain competitive with uninspected vessels;

(2) Eliminate unnecessary barriers to safe operations when passengers are not being carried;

(3) Encourage some owners to operate their vessels as certificated vessels whereas they might otherwise forego inspected service and operate in the uninspected passenger vessel service; and

(4) Allow vessels to operate in a manner at least similar to the way they have operated safely, with few exceptions, since 1957.

Without the proposed provisions of § 176.114, or similar provisions, the owners of many vessels would be significantly impacted. Unless a small passenger vessel's COI was surrendered by the owner, changing berths with no passengers aboard could not legally be done without fully complying with the required manning on its COI. Similarly, a vessel moving to another port without passengers, just to be drydocked, could not do so without having aboard all the lifesaving equipment required by its COI. Another typical example is a vessel certificated to carry 12 people on a coastwise route, required under proposed part 180 to carry inflatable buoyant apparatus. This vessel would not be able to carry just six passengers on an oceans route more than 50 miles offshore, because it would be required to have inflatable liferafts under proposed part 180, even though an uninspected passenger vessel carrying six passengers, not equipped with any survival craft or required to meet any inspections standards, could operate on a full oceans voyage. Many small passenger vessel owners would also suffer a significant economic loss if they were suddenly prohibited from using their vessel as an uninspected vessel, such as for commercial fishing. Some vessels which are presently inspected under subchapter T may choose to drop certification if they derive more income from uninspected vessel operations, such as commercial fishing or charter boat fishing carrying 6 or less passengers.

To operate as an uninspected vessel, a small passenger vessel can surrender its COI and have it reissued at a later time, or in some cases an excursion permit could be issued. However, neither of these options is considered an acceptable alternative on a routine basis as both options would place a significant administrative burden on the Coast Guard and owners. Presently, numerous vessels routinely operate carrying six or less passengers without being in full compliance with their COI.

Existing § 176.01–1(b) only applies to small passenger vessels of not more than 65 feet in length. Proposed § 176.114 would apply to all small passenger vessels less than 100 GT since the reasons to allow operations comparable to uninspected vessels are applicable to all vessels regardless of size.

The proposed regulation in the NPRM only indicates that a vessel could comply "* * * with the laws and regulations applicable to an uninspected vessel when the vessel is carrying six or less passengers * * *". The proposal also states that "* * * the vessel must be maintained and outfitted in compliance with the terms and conditions of its COI * * *". The primary intent of the proposal is to allow a small passenger vessel which is carrying not more than six passengers, including when carrying no passengers, to operate on a route more severe than the route allowed when carrying more than six passengers. However, when operating on the increased route, the owner/operator may not change the condition of the vessel or the equipment on it. Two examples are: the electrical system and equipment could not be modified; and, any lifesaving equipment required based on the route of the vessel when carrying more than six passengers could not normally be removed.

To clarify the impact of the proposal, the wording in this SNPRM has been revised to specifically indicate which subchapter T regulations an inspected vessel operating in a normally uninspected vessel service need not comply with, providing the COI is so endorsed and the vessel meets certain applicable regulations or requirements for uninspected commercial or recreational vessels operating in the same service. The regulations which will not be required to be met but which will be addressed by the endorsement are those which are based on route, passengers, or a combination thereof, and which are different for inspected and uninspected vessels. These include those regulations relating to structural adequacy in subpart C of part 177, stability and subdivision in parts 178 and 179, lifejackets and survival craft in part 180, and navigation equipment in part 184. Requirements which must be met when an inspected vessel is operating in an uninspected service are those concerning permanent outfitting and design requirements such as electrical or firefighting equipment, requirements involving good seamanship which should be applicable to both inspected and uninspected vessels, and statutory requirements, including those for EPIRBs, passenger lists, and passenger counts. The proposed endorsement will indicate the maximum route, number of passengers and maintenance required for the requested uninspected vessel service contemplated.

Several comments stated that the proposed endorsement is not necessary because a vessel is not a small passenger vessel unless it is carrying more than six passengers. Title 46, U.S.C. 2101(35), does define a small passenger vessel as a vessel of less than 100 gross tons carrying more than six passengers. However, a review of the statutory history shows that the intent of the law is that once a small passenger vessel is issued a COI, it must remain in compliance with the terms of the certificate even when carrying not more than six passengers.

Concern has been expressed over the potential liability imposed on the Coast Guard by allowing a small passenger vessel to operate basically as an uninspected vessel, especially since it appears that the proposed endorsement contradicts 46 U.S.C. 3313. The revised § 176.114 in this SNPRM should eliminate most concerns over liability since it requires the OCMI to consider both route and manning before issuing the endorsement.

The proposal in the NPRM stated the minimum manning and route restrictions on the COI need not be complied with when operating under the proposed endorsement. As noted below, the revised proposal in this SNPRM would require that the OCMI give specific consideration to the vessel's manning and route when allowing a vessel to operate beyond the normal route restrictions on its COI. The revision also states that equipment required by a vessel's COI for its normal route and service may not be removed without permission of the OCMI. This is to ensure that the vessel is properly equipped when operating in its normal service but allows the OCMI to authorize the temporary removal of such equipment for such reasons as the periodic servicing of the rafts.

Several comments to the NPRM provided general support for the proposed endorsement while several

others opposed it. One comment stated that because of the lack of manning restrictions on uninspected vessels, uninspected passenger vessels have a high risk of casualties and that manning requirements should be dropped on small passenger vessels only if there are not any passengers aboard. Another comment stated that the proposal could be interpreted to mean a licensed operator would not be required while operating under this endorsement. Another comment wanted to include a requirement for two crews, when operating in excess of 12 hours, to reduce fatigue.

The Coast Guard agrees there is room for concern about manning on small passenger vessels operating as uninspected vessels. Title 46 U.S.C., section 8902 requires that a small passenger vessel be operated by an individual licensed to operate that type of vessel in the particular geographic area. No provision is included in the statute for those times when a small passenger vessel is providing what would otherwise be an uninspected vessel service. Therefore, proposed § 176.114 is revised in this SNPRM to require the OCMI to specify the minimum manning when issuing the proposed endorsement. Due to the requirements of 46 U.S.C. 8902, a vessel operating under the endorsement must be manned with at least one licensed master. When specifying the actual manning for such an endorsement, the OCMI must consider factors such as the number of passengers on board, if any, duration of voyages under the endorsement, and vessel size. If § 176.114 is adopted in the final rule, the Coast Guard intends to include sample manning scales and endorsements in the MSM as guidance to OCMIs.

An OCMI must presently determine if a vessel meets minimum structural and intact stability requirements for a vessel's intended normal route before issuing a COI for that route. Under the revised proposal in this SNPRM, the OCMI must also consider the structural safety, stability, and seaworthiness of a vessel for the extended route it might be authorized to operate on under the endorsement proposed by § 176.114. A small passenger vessel under 20 feet in overall length, which is operating as a recreational boat, or an uninspected vessel carrying six or fewer passengers, must comply with either: (1) The structural and stability requirements of subchapter T, or; (2) the standards applicable to recreational boats in 33 CFR part 183. A small passenger vessel which is being used as a commercial fishing vessel when it is not carrying passengers would have to meet the stability requirements applicable to commercial fishing vessels. A final rule containing stability criteria for fishing vessels of 79 feet or greater in length was published in the **Federal Register** August 14, 1991 (56 FR 40364). An SNPRM proposing stability requirements for fishing vessels of less than 79 feet was published in the **Federal Register** on October 27, 1992 (57 FR 48670). Owners of other vessels would have to establish to the satisfaction of the OCMI that they are safe for the intended route, considering the reduced number or absence of passengers and the actual service of the vessel when operating under the endorsement. This could be established by: (1) Voluntary compliance with the subchapter T requirements; (2) voluntary compliance with the requirements for recreational or fishing vessels; (3) evidence of past satisfactory service; or, (4) other evidence that the design and construction of the vessel is satisfactory for the intended route.

One comment stated that the OCMI should automatically place the endorsement on a COI. The Coast Guard disagrees. By requiring an owner to request the endorsement, the Coast Guard can better ensure that the owner is aware of the implications of the endorsement and the applicable uninspected vessel requirements in 46 CFR subchapter C or recreational boat requirements in 33 CFR subchapter S.

Several comments stated that passengers should be informed when a vessel is operating under the provisions of the proposed endorsement. The Coast Guard agrees and § 185.506(a)(10) in the NPRM (renumbered as (a)(9) in this SNPRM) would require that a verbal announcement be made. The requirement for the announcement is also contained in revised proposed § 176.114. Some comments stated the COI and COI Expiration Sticker should also be removed. Removing the COI and Expiration Sticker are unnecessary because the COI remains valid. The proposed endorsement only alters the normal conditions of the COI for when the vessel is carrying six or less passengers.

One comment stated the endorsement to be placed on the COI should be specified in the regulations. The Coast Guard disagrees because the differences in factors such as route, passengers carried, and type of service, will result in a need for flexibility in issuing such endorsements. Therefore, the actual wording of specific endorsements is not included in this proposal but the proposal states the endorsement must note the maximum route, passengers (if any), and manning required to operate under the provisions of § 176.114. If the proposal is adopted, the Coast Guard intends to develop recommended guidance for OCMIs to use in issuing such endorsements. An example of an endorsement for a vessel normally certified for a coastwise route carrying not more than 49 passengers with one master and one deckhand is: "Under the provisions of 46 CFR 176.114, this vessel may be operated on an oceans route carrying not more than six passengers with a reduced manning of 1 licensed master."

One comment stated the proposal in the NPRM contradicts 46 U.S.C. 3313. Although 46 U.S.C. 3313 does require a vessel to comply with its COI at all times, 46 U.S.C. 3306 authorizes the Coast Guard to establish regulations on the design, construction, and equipment for small passenger vessels. For a vessel which would be operating under the endorsement proposed in this SNPRM, the regulatory requirements would be reduced in consideration of the reduced number or absence of passengers. The proposed endorsement would also promote a safer situation by allowing the use of an inspected vessel in a service that does not require a vessel to be inspected at all. Prohibition of small passenger vessels from operating as basically uninspected vessels when carrying less than six passengers would cause many owners to drop the certification of their vessels, creating a potentially less safe situation.

Section 176.202 Permit To Proceed

This section was based on the provisions of 46 U.S.C. 3313(b)(2) and existing 46 CFR 176.01–27. The wording has been changed to more accurately reflect the wording of 46 U.S.C. 3313(b)(2).

Two comments believed that the rule is too restrictive and that the Coast Guard should not be concerned with the vessel's movement when passengers are not aboard. The Coast Guard disagrees. As discussed under § 176.114 in this preamble, the law requires that a vessel be in compliance with its COI at all times. Therefore, even if there are no passengers aboard a small passenger vessel, a vessel must remain in compliance with subchapter T. The Permit to Proceed basically serves as a substitute for the regular COI allowing a vessel to legally proceed even though it may not be in its normally required condition. The OCMI will normally return the regular COI, or issue a new COI if necessary, upon completion of necessary repairs.

Section 176.202(b) in the NPRM states that a Permit to Proceed may only be

issued after the COI is surrendered. The Coast Guard is proposing to revise this to state the permit shall be issued only after the OCMI has withdrawn the COI from the vessel. The word "surrender" indicates a permanent giving up of the COI whereas the intent is that the OCMI will only temporarily withdraw the COI and replace it with a Permit to Proceed. When an owner voluntarily surrenders a vessel's COI and removes the vessel from passenger carrying service, a full inspection for certification must normally be conducted in order for a new COI to be issued. Under these circumstances a Permit to Proceed will not be issued to the vessel since it is no longer considered an inspected vessel.

Paragraph (c) of the NPRM states that passengers may not be carried when a vessel is operated under a Permit to Proceed. Neither the law nor the existing regulation contain such a specific prohibition. The OCMI must evaluate each vessel on a case-by-case basis to determine whether it remains safe to carry passengers while operating under a Permit to Proceed. This section of the SNPRM has been revised to let the OCMI determine whether or not the vessel is safe to carry passengers while operating under a Permit to Proceed.

Section 176.204 Permit to Carry Excursion Party

Adopted from existing § 176.01–30, this section would authorize an OCMI to allow a vessel to carry extra passengers or operate beyond the route on its COI. One comment requested to know if the statement in the proposed section that "The permit acts as a temporary one-time supplement to the vessel's COI * * *" means that an excursion permit may be issued only once during the term of a COI. The intent of the excursion permit, which is authorized by 46 U.S.C. 2113, is to allow a vessel to carry more passengers than normally allowed by its COI or to operate outside the route permitted by its COI for a limited time in order to participate in special events such as regattas, to serve as a viewing platform for races, or otherwise provide passenger service for or due to an event that does not occur on a frequent basis and which will last for only a limited time. A vessel could be issued an excursion permit more than once during the term of its COI, but an individual permit may only be issued for a limited time and may not be used as a device to circumvent normal inspection requirements. Prior to issuing an excursion permit, the OCMI must consider whether there are other inspected vessels already available to adequately provide the services for which the permit is being requested and whether it would be economically feasible for the vessel to routinely meet all the inspection requirements for the passenger capacity and route for which the excursion permit is being requested. The wording proposed in the NPRM has been changed to show that an excursion permit is of "limited duration" rather than a "one time-supplement."

Three comments recommended that excursion permits not be issued which would allow vessels to circumvent stability restrictions and structural fire protection requirements imposed by subchapter T. They also recommended that the existing restrictions on the issuance of excursion permits in the MSM concerning stability, capacity, and fire protection be incorporated into regulation. The Coast Guard agrees. Volume II, section 10.B, of the MSM presently states that:

1. The OCMI shall not waive the applicable minimum stability and fire safety standards when issuing an excursion permit;

2. The number of passengers normally permitted on an excursion vessel shall be governed by 46 CFR 176.01–25; and

3. Vessels that do not comply with the structural fire protection requirements of 46 CFR 177.10–5 shall not carry more than 150 passengers.

The Coast Guard is proposing to incorporate these restrictions in this SNPRM.

Subpart C—Posting of Certificates, Permits and Stability Letters

The regulations proposed in the NPRM mirrored the existing regulations in requiring the posting of certificates, permits, and stability letters. In order to comply with the Paperwork Reduction Act of 1980, which requires federal agencies to seek ways to reduce regulatory paperwork burdens placed on individuals and other entities, the Coast Guard reviewed the posting requirements of this subpart and is revising two of its posting requirements. The Coast Guard is proposing to delete the requirement to post a Permit to Proceed, Form CG–948, and a Permit to Carry Excursion Parties, Form CG–949. The Permit to Proceed serves as a substitute for the COI after the OCMI determines that a major deficiency requires immediate repairs. The permit is intended to be valid only until a vessel reaches the port where repairs will be conducted. The Coast Guard has determined that just carrying a permit in a readily available location is sufficient and less burdensome than requiring posting. Likewise, a Permit to Carry Excursion Party may modify the route, operating conditions, or required emergency equipment, and is also intended to be valid for a short period. Posting is not considered necessary. Section 176.302 has therefore been revised by deleting the requirement for the posting of a Permit to Proceed or an Excursion Permit. Permits which are posted would be considered readily available.

Consideration was also given to deleting the requirement to post a stability letter. However, due to the type of operations and the frequent crew turnover on small passenger vessels, the Coast Guard's position is that stability letters, when issued to small passenger vessels, should be posted to better ensure the vessel's officers are aware of its contents.

One comment stated that all pages of a stability letter should be clearly visible. The Coast Guard agrees. All pages of a vessel's stability letter contain vital information which, if not visible, may not be read by the operator. Because it also contains important information, the vessel's COI is required to be posted by law. The Coast Guard has revised §§ 176.302 and 176.306 to require that all pages of a COI or stability letter be clearly visible. It is the owner or managing operator's responsibility to ensure that the master has read and understands the provisions and limitations in these documents.

Section 176.402 Initial Inspection for Certification

Paragraph (a) of this section in the NPRM states that the plans required by part 177 must be submitted prior to starting construction or prior to the initiation of the initial inspection of an existing vessel being converted to a small passenger vessel. One comment stated that to require the submission of plans before the inspection is too restrictive. In most cases the required plans should be submitted prior to the inspection. Experience has shown that the initiation of an inspection before plans are submitted and approved often results in a wasteful use of the Coast Guard, owners', and builders' time. During initial and new construction inspections, vessels are often found to be in non-compliance with requirements. Initial plan review may detect non-compliance before a vessel is built or inspected. However, the Coast Guard does agree that there are instances where the delay of the submission of plans may be necessary or beneficial. Paragraph (a) has therefore been revised so that the OCMI may allow a delay in plan submittal. Owners and builders should realize that any construction or changes made prior to actual plan approval is at their risk.

Another comment stated that plans should not only be submitted but approved prior to initiation of an inspection. The Coast Guard agrees that, ideally, plans should be approved prior to initiation of an inspection. Lack of approved plans will often hinder an inspector from conducting an adequate inspection and result in delays. However, due to workload and limited personnel resources, there is often a delay between submittal and when the staff of the OCMI or the Marine Safety Center can review a plan. Requiring plan approval before inspection would, in many cases, place an undue burden on an owner. Therefore, the Coast Guard does not intend to normally require plan approval before initiation of an inspection. However, neither an initial inspection will be completed nor will a vessel be certificated without approved plans and the vessel found to be constructed in accordance with those plans. Additionally, certain aspects of an inspection may not be able to be initiated until certain plans have been approved. No change was made to the NPRM.

Paragraph (c) of proposed § 176.402 states that the owner shall ensure that a vessel complies with applicable laws and regulations. One comment stated that the owner should only be required to ensure compliance "as far as can be reasonably determined." The Coast Guard disagrees. The owner has a responsibility to comply with all requirements and to make the vessel safe for its intended route and service. The addition of this type of caveat would diminish the responsibility of the owner to comply.

Section 176.404 Subsequent Inspections for Certification

This section of the NPRM states the inspection requirements for renewal of a COI and directs the owner to conduct all tests as required by the marine inspector. One comment suggested that the inspector should only require those tests specified by Subchapter T. The intention of this section is to require those tests and drills listed in subpart H of part 176. However, the OCMI and the inspector are specifically allowed to use their judgment in directing the owner to perform other tests, inspections, and drills. This section has been revised to specifically include drills in the wording.

One comment stated this section should be revised to require that, once an application for inspection is received and an inspection is begun, the existing COI should be void. The Coast Guard disagrees. Under some circumstances, inspections for certification can take 2 to 4 weeks to complete. In these situations, important lifesaving and firefighting equipment is usually examined on the first visit. If a COI has not yet expired when an inspection begins and the vessel does not have any discrepancies which would invalidate the COI or make the vessel unsafe, the COI should not be considered void. Once an inspection begins, the COI for a vessel is sometimes removed but this is not necessary in all cases. Often a requirement is issued by the inspector which restricts the route or conditions of operation because of equipment which is missing or expired. Under the restrictions the vessel can still operate safely. No changes have been made to the NPRM.

Subpart E—Reinspection

Section 176.500 When Required

This section requires that the owner or managing operator make the vessel available for annual reinspections within 60 days of the anniversary date of the COI and that the OCMI be contacted to arrange for the reinspections. One comment stated that an annual deck inspection is too frequent, but that an inspection every three years is not enough. The comment recommended a biennial inspection for certification. The Coast Guard disagrees. Presently all small passenger vessels, depending upon their length, undergo either an annual inspection for certification or an annual reinspection. The reasons for proposing a thorough inspection for certification for all small passenger vessels every three years are to comply with the intent of Public Law 96–378, as presently codified in 46 U.S.C. 3307, to provide more uniform requirements for all small passenger vessels, and to decrease the administrative burden on both the industry and the Coast Guard. The Coast Guard has concluded that a reinspection should be conducted on all small passenger vessels at least annually due to the rigorous use of most vessels.

One comment stated that because a small passenger vessel may be laid up for long periods, it should be reinspected if it has not carried passengers for a period exceeding 120 days. The Coast Guard does not agree that such a specific requirement is necessary. In addition to the annual reinspection, paragraph (b) of this proposed section gives the OCMI authority to require a reinspection whenever it is determined that one is necessary, which could include the situation where a vessel has been laid up for a long period. No revisions were made to the NPRM.

Section 176.502 Scope

This section of the NPRM states that the scope of a reinspection is the same as an inspection for certification but in less detail. Two comments believed that paragraph (b) of this section limited the extent of a reinspection which a marine inspector could conduct. Paragraph (a) of this section already states the extent of a reinspection is the same as an inspection for certification, "but in less detail * * *". Other sections in subchapter T already cite the inspection authority of a reinspection. The MSM details the normal manner in which a reinspection should be carried out. In this SNPRM the Coast Guard is proposing to delete paragraph (b).

Section 176.600 Drydock and Internal Structural Examination Intervals

This section in the NPRM proposed to increase the intervals between drydock exams. Several persons specifically approved of the general increase in intervals. Others had some specific concerns. Two comments stated that the drydock interval should actually be decreased to 12 months citing two casualties which may have been prevented, the COMET and the JOAN LA RIE III. The Coast Guard disagrees and believes that a two year drydock interval is adequate for most vessels. As noted in the NPRM, when the COMET sank it did not have a valid COI. If it had been under certification, any inadequacies in the hull, which may have caused its sinking, would probably have been discovered during routine inspections and drydock examinations. There is no evidence that the JOAN LA RIE III casualty was caused by inadequacies which could have been discovered only during a drydock exam. Section 176.802 provides for the inspection of all accessible parts of the exterior and interior of hulls during all inspections and reinspections. Such inspections should normally allow the OCMI to determine if the hull is in satisfactory condition. If, during inspection or reinspection, it is determined that the hull may not be in satisfactory condition, the OCMI has the authority under § 176.600 (K § 115.600) to require a special drydock examination to verify the condition of the hull. Underway tests may be required during the inspection or reinspection that would also help prove the integrity of the hull.

One comment requested that the drydock interval be extended to three years, while another recommended that the interval should be made the same as passenger vessels under 46 CFR subchapter H, i.e., two drydockings

every five years but not more than 3 years between drydockings. The Coast Guard disagrees, believing that there is insufficient information available to adequately determine whether drydock examination intervals can be safely extended to three years for small passenger vessels. If the proposed two year period is adopted, and there is sufficient data accumulated on the condition of the underwater body of vessels using the two year examination interval, the Coast Guard may review the issue and consider further interval extensions.

One comment stated that underwater surveys should be allowed in lieu of drydockings especially in areas where there are no drydock facilities. Due to the level of safety to which vessels carrying passengers should be held, the Coast Guard's position is that the drydock exam of small passenger vessels should not normally be waived or the exam interval extended. However, the Coast Guard realizes that special circumstances may necessitate extensions on a case-by-case basis. Proposed § 176.670 would authorize the extension of the drydock interval for extenuating circumstances. Equivalencies to drydock exams, such as underwater surveys, could also be accepted in unusual cases under the provisions of §§ 175.540 or 175.550. In extending drydocking intervals from 18 months to 2 years the Coast Guard took into account disruptions in operating schedules. A 2 year interval allows drydockings at the same time of year without alternate year interruptions.

One comment suggested that the use of the word "operates" in paragraphs (c)(1) and (c)(2) of the NPRM may allow some owners to circumvent a required drydocking by taking a vessel "out of service" and not operating it. The intent of paragraph (c) is to establish differing drydock exam intervals based on the amount of time the underwater body of a vessel is exposed to salt water. If an owner temporarily takes a vessel out of service while its COI is still valid, the drydock intervals of this section remain valid. To clarify this, the Coast Guard has revised proposed paragraph (c) by changing the words "that operates in salt water" to "which is exposed to salt water."

Paragraph (d) of this section would decrease the drydock interval of wooden hull vessels operating in fresh water from 5 years to 2 years. One comment objected to the decreased interval stating that wooden vessels operating on inland routes are not exposed to the hogging and sagging experienced by vessels on oceans routes. The Coast Guard disagrees and has retained the two year interval in this SNPRM. There is evidence that fresh water accelerates the deterioration of wood due to rot, and wooden vessels in fresh water should be drydocked at shorter intervals than metal hull vessels. Although it is true that inland vessels are not exposed to hogging and sagging as severe as that to which a seagoing vessel is exposed, it is also true that they are allowed to be built to reduced scantlings as compared to seagoing vessels.

As a result of the casualty analysis discussed under part 180, subpart E of this preamble, the Coast Guard has determined that wooden vessels over 20 years old are more at risk from hull and through hull fitting failures than other categories of vessels. The Coast Guard is proposing in this SNPRM that wooden vessels over 20 years old be drydocked every year.

Paragraph (e) of this section authorizes the OCMI to conduct an internal structural examination or a drydocking when damage or deterioration to hull plating or structural members is discovered. One comment stated that this authorization should be extended to include when a grounding occurs. The intent of this section is to allow the OCMI to satisfactorily examine the vessel whenever damage or deterioration is suspected. Paragraph (e) is revised in this SNPRM to reflect this intent.

One comment requested that paragraph (g) be revised to indicate that credit may be given whenever a vessel is drydocked and examined by a marine inspector in excess of the minimal intervals required by this section. The Coast Guard agrees that credit should be given whenever a satisfactory examination is conducted and believes that this is already indicated by the use of the words "at least" before the specified intervals.

Paragraph (f) of this section allows a vessel on a foreign voyage which becomes due for a drydock examination during the voyage to complete the voyage before drydocking. One comment questioned the need for this clause. This paragraph is based on Chapter I, Regulation 14, of SOLAS which allows such a delay for vessels which are on international voyages and have valid SOLAS certificates. For clarity, § 176.600(f) (K § 115.600(e)) has been changed in this SNPRM to apply to a vessel on an "international voyage."

One comment wanted a 30 day grace period for the drydock due date to allow for scheduling. The Coast Guard disagrees. The NPRM already increases the drydock exam interval. Allowing such a grace period would further extend the interval. Owners should arrange drydockings sufficiently in advance to avoid exceeding due dates. If unforeseen problems arise, an extension may be requested under § 176.670.

Section 176.610 Scope of Drydock and Internal Structural Examinations

This section describes what is inspected during a drydock examination. One comment recommended that the section be revised to include a specific statement that fasteners for wooden vessels may be required to be pulled for examination. The Coast Guard concurs and consequently has incorporated this existing policy into this section.

Section 176.612 Notice and Plans Required

Paragraph (a) of this section in the NPRM requires that the OCMI be notified whenever the owner intends to drydock a vessel in order to make "major repairs or alterations affecting the safety or seaworthiness of a vessel." One comment stated, "major repairs or alterations" should be defined. The Coast Guard acknowledges that the term "major repairs or alterations" is subject to inconsistent interpretation and has revised the paragraph to indicate the type of drydock hull repair which would require an owner to notify the OCMI.

Paragraph (b) of this section requires that whenever a vessel is drydocked only for the purpose of minor repairs or maintenance, no report need be made to the OCMI. Two comments stated that the OCMI should be notified so he can determine whether or not the repairs are minor. The Coast Guard agrees that whenever damage repairs are made the OCMI should be notified and is revising paragraph (b) by deleting the words "minor repairs." Other vessel inspection subchapters also require that an owner notify the OCMI whenever a vessel is to be drydocked. Because of the comparative ease of drydocking many small passenger vessels, many owners pull their vessels out of the water for routine maintenance in excess of the required drydocking intervals. The Coast Guard does not deem notification necessary for routine maintenance work.

Section 176.670 Extension of Examination Intervals

This section proposes that the Commandant authorize extensions of the required drydock examination interval. Existing § 176.15–1(a) also authorizes the Commandant to grant extensions. As noted in the MSM, Commandant (G–MVI) has delegated to OCMIs the authority to extend drydock

examinations for up to one year. Two comments stated that OCMIs should keep their authority to grant extensions, whereas one comment believes Commandant (G–MVI) should retain extension authority to ensure consistent application. To minimize the administrative burden, the Coast Guard has revised this section of this SNPRM by specifically stating that the Commandant may delegate authority to grant extensions to OCMIs. The Coast Guard expects that with the increase in drydock examination intervals, the need for and length of extensions will decrease. To ensure better consistency among inspection zones, the MSM will be revised to include more specific guidance on when extensions may be considered.

Section 176.700 Permission for Repairs and Alterations

This section of the NPRM states that repairs or alterations to machinery which affects the safety of the vessel may not be made without the approval of the OCMI, and lists examples. One comment stated that "* * * overhaul, disassembly, or repair or alterations to mechanical systems not limited to the main engines, transmissions, generators, steering gear, pumps and hydraulic systems * * *" should be added to the list of examples. The Coast Guard disagrees. The intention of this section is that the OCMI be made aware of any damage, repairs, alterations to, or replacements of (other than replacements in kind), the vessel's hull or essential equipment. It is not intended that the OCMI be notified of normal maintenance work on small passenger vessels such as engine overhauls or replacement with like material due to normal wear and tear. Section 176.700 has been revised in this SNPRM to clarify the intent of this section.

Section 176.710 Inspection and Testing for Gas Hazards

This section states that NFPA publication 306, "Control of Gas Hazards on Vessels," (NFPA 306) should be used as a guide to ensure that confined spaces are suitable for entering and that before performing hot work on fuel tanks and related appurtenances a marine chemist must certify that it is safe to conduct such work. Sections similar to § 176.710 are presently in other vessel inspection subchapters, except that the other subchapters specifically state that NFPA 306 must be used as a guide in conducting required inspections prior to hot work, and they do not specifically address using it for confined space entry.

Three comments recommended changes to § 176.710 including the adoption of Occupational Safety and Health Standards for Shipyard Employment in 29 CFR 1915 for use prior to hot work and confined space entry. Because of the similarities regarding hot work and confined space entry on most vessels, incorporating the standards in 29 CFR into small passenger vessel regulations would involve safety and policy issues which affect other inspected vessels. Consideration will be given to such changes in the future. The Coast Guard is revising § 176.710 in this SNPRM to read similarly to corresponding existing sections in other vessel inspection subchapters.

Subpart H—Material Inspections

This subpart lists the material inspections and tests which an owner must be prepared for and which will normally be conducted during an inspection. One comment stated that "and reinspection" should be added to the phrase "At each initial inspection and subsequent inspection for certification * * *" used throughout the subpart since the listed inspections and tests should be done annually with the same scope each time. The Coast Guard's position is that § 176.502 adequately discusses conducting a reinspection.

One comment stated that, unlike existing § 176.25–25(a), under § 176.810 the inspector would no longer examine and test fire extinguishing systems and would therefore rely on the statements of the owner. The comment stated that such a situation could leave too much to interpretation. In fact, sections in existing part 176, subpart 176.25, Material Inspections, start out "* * * the marine inspector shall examine and test * * *". The corresponding sections in proposed part 176, subpart H of the NPRM were intentionally changed to read: "* * * the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of * * *". The change was made to emphasize that the burden is on the owner to have the vessel in satisfactory condition and to conduct satisfactory tests. Section 176.404 of the NPRM also points this out, stating: "The owner or managing operator shall conduct all tests as required by the marine inspector, and make the vessel available for all specific inspections required by subpart H * * *". Subpart H lists the specific tests and inspections which will normally be conducted by the owner and witnessed by the marine inspector during an inspection. Some tests may not need to be witnessed by a marine inspector, such as portable fire extinguisher servicing under § 176.810(b). The rule proposed in the NPRM has not been changed.

Historically, the Coast Guard has approached commercial vessel safety by inspection of vessels and casualty investigations which looked for mechanical breakdown or equipment problems. The Coast Guard looked less closely at human factors and management elements, including vessel and equipment maintenance, training and certification of personnel, and management of vessel and company operations, which might lead to a better understanding of the root causes of casualties.

The Coast Guard has begun to focus efforts on the human and management roles in marine safety. IMO Resolution A–465, "Management Guidelines for Safe Ship Operation and Pollution Prevention," outlines management's role in casualty avoidance. It was described and its use encouraged in NVIC 1–90. The public expects and the Coast Guard demands that all vessels should be maintained to the highest safety standards, crewed with personnel trained and qualified to do their jobs in a professional manner, and managed proactively and effectively. What this ultimately means is that owners and operators must assume more of the responsibility for safe operation of their vessels.

Section 176.802 Hull

Paragraphs (b) and (c) of this section state that a vessel must be afloat for that portion of an inspection required by the inspector and that, when required by the inspector, a portion of the inspection must be conducted while underway. One comment stated that the phrase "required by the marine inspector" should be removed to avoid inconsistencies. The Coast Guard disagrees. A primary purpose of this revision is to reduce inconsistencies among inspection zones primarily with regard to design, construction, and outfitting requirements. However, there are many variables during subsequent inspections, such as the age and condition of a vessel, which necessitate that the inspector be afforded some discretion regarding the extent of the inspection. Existing Coast Guard policy, when possible, is to conduct a portion of the inspection for certification on wooden hull vessels while the vessel is underway.

Section 176.804 Machinery

This section describes machinery and equipment testing and inspection during initial and subsequent

inspections for certification of a vessel. One comment stated that the operational testing of valves in bulkheads and through hull fittings, required by paragraph (g), should be done during a drydock exam. The Coast Guard disagrees. Through hull fittings and valves are thoroughly inspected during each drydock exam. This section calls for an operational test of these valves to ensure proper working order.

With reference to paragraph (h), one comment stated that the bilge pump should not be allowed to pump bilges when also being used for a fire pump, and that separate pumps are needed. The Coast Guard agrees a single pump should not be used to pump bilges and charge the fire main simultaneously. This would probably lead to oily water being introduced into the fire main, which could be dangerous, and produce low or no fire main pressure, depending on the piping arrangement. In fact, §§ 182.520(i) (2) and (3) of this subchapter would not allow this arrangement. Section 182.520(i)(2) indicates that two pumps are required for simultaneous pressurization of the fire main and operation of the bilge pump system. Section 182.520(i)(3) requires the interconnected fire and bilge systems to be capable of being isolated so that they can be operated simultaneously, using separate pumps. The last three lines of § 176.804(h) in the NPRM have been deleted.

Section 176.810 Fire Protection

Three comments suggested deleting paragraph (a)(5), which states that cylinders have to be tested and inspected in accordance with part 147, § 147.60. This requirement emphasizes that cylinders for compressed gases must be constructed, production tested, and marked in accordance with the applicable DOT cylinder specifications in Title 49 of the CFR. No change was made to the NPRM.

Three other comments suggested deleting the reference to part 147, § 147.65 in paragraph (a)(6), and recommended the inclusion of the actual requirements. The Coast Guard considered this suggestion, but is retaining the reference to § 147.65 because it includes hydrostatic test requirements for flexible connections and discharge hoses, as well as cylinders. Retaining this reference reduces the amount of text for this section. No change was made to the NPRM.

A number of comments were received addressing the requirements of the tables in paragraph (b) for inspection, maintenance, and periodic testing of portable fire extinguishers. Some comments requested deletion of Table 176.810(b)(1) which specifies the testing of portable fire extinguishers, and recommended referencing the maintenance requirements of NFPA Standard 10, "Portable Fire Extinguishers" (NFPA 10). Maintenance of portable fire extinguishers in accordance with NFPA 10 is consistent with extinguisher industry and independent testing laboratory practice. All Coast Guard approved extinguishers and all shoreside extinguishers, other than household extinguishers, have a statement on their labels that the extinguisher is to be maintained in accordance with NFPA 10. As a result, Coast Guard inspectors are using NFPA 10 as the standard guide and reference for inspection and maintenance of portable fire extinguishers. A review of the applicable sections of NFPA 10 reveals the following extinguisher servicing philosophy:

1. Monthly inspections or "quick checks" of the portable fire extinguishers by vessel operator.

2. Annual servicing by trained persons, using the appropriate extinguisher manufacturer's servicing manuals, the proper types of tools, recharge materials, lubricants, and the manufacturer's recommended replacement parts.

3. For certain types of fire extinguishers, emptying the extinguishers every six years by trained persons and conducting specific maintenance procedures.

4. Conducting periodic hydrostatic pressure tests of rechargeable extinguishers with the frequency as detailed in NFPA 10. This testing must be conducted by persons trained in pressure testing procedures and safeguards, and having available suitable testing equipment, facilities, and appropriate servicing manual(s). If the servicing of DOT cylinders is required, the servicing organization must be certified by DOT in accordance with the applicable DOT regulations.

After reviewing the comments received on inspecting and maintaining portable fire extinguishers, the Coast Guard agrees that portable fire extinguishers should be inspected and maintained in accordance with NFPA 10. Table 176.810(b)(1) has been deleted in this SNPRM and paragraph (b) has been revised. New Table 176.810(b) addresses the inspection and testing of semi-portable extinguishers as well as portable extinguishers and fixed systems.

One comment questioned whether it was necessary to service dry chemical fire extinguishers annually. NFPA 10 requires such servicing, although this does not mean "recharging" as the comment implied. The comment may have misunderstood the term "servicing" to mean "recharging," rather than just the maintenance procedure specified by NFPA 10 for dry chemical fire extinguishers.

One comment requested clarification about who is authorized to service fire extinguishers. One comment stated that maintenance should only be performed by professional servicing organizations, since vessel owner/operators are not qualified to service extinguishers. One comment suggested that the vessel's master should be designated as one of the persons authorized to conduct extinguisher servicing. The Coast Guard agrees, in principle, that the maintenance of currently approved extinguishers can be hazardous because it involves pressurized cylinders and requires trained personnel having specialized equipment. Being the master of a vessel does not automatically qualify someone to service fire extinguishers, nor does it prohibit trained or experienced masters or crewmembers from doing so. Unless vessel personnel have been specifically trained and have the necessary equipment, manufacturer's servicing manuals, and recommended replacement parts, maintenance of extinguishers is best conducted by a professional servicing organization. Most recharging and hydrostatic testing will have to be done at the facility of a professional servicing organization. No change has been made to the NPRM.

Section 176.812 Pressure Vessels and Boilers

Existing requirements in §§ 176.25–30 and 176.25–32 give specific requirements for pressure vessels, including a requirement for internal examinations of most pressure vessels every 3 years. Boilers are required to undergo the tests and examinations in part 61 of subchapter F. The requirements proposed in the NPRM simply referred to the inspection and testing requirements of part 61, subpart 61.10 for pressure vessels and part 61, subpart 61.05 for boilers. Five comments pointed out that this was confusing because subpart 61.10 refers to biennial (once every 2 years) internal examinations for pressure vessels, instead of the existing triennial (once every 3 years) requirement. Several questioned why 3 year intervals were good enough for small passenger vessels, but only 2 year intervals were allowed on other types of vessels. Some comments wanted to know why the intervals were being reduced. One comment thought the proposal was

good, because the pressure vessel test and examination requirements should be the same for all vessels.

The present subchapter F requirement for biennial internal examination of pressure vessels on most types of vessel exists, in part, in order to be in alignment with their inspection for certification and drydocking intervals, both of which were 2 years before 1987. In 1987 the drydocking interval for most vessels was changed to be two drydockings in any five year period, with no more than 3 years between any two examinations. Because it may be more appropriate to inspect and test most machinery on larger vessels at the time of drydocking, the Coast Guard is proposing to extend the pressure vessel internal examination interval under a project entitled "Incorporation of Amendments to the International Convention for Safety of Life at Sea, 1974" (CGD 83–043). An NPRM was published in the **Federal Register** 28 September 1990. A final rule will be published at a later date.

Under the existing regulations, a triennial internal examination of pressure vessels is convenient for most small passenger vessels because it lines up with annual and triennial inspections for certification, and 18 and 36 month drydocking intervals. Under the requirements proposed in this SNPRM, most small passenger vessels will be drydocking every 2 years while a few vessels operating in freshwater will be drydocking every 5 years. All vessels will have to have an inspection for certification every 3 years. A pressure vessel internal examination interval of 2 years would line up well with the proposed drydocking intervals, but would be more restrictive than that proposed in the NPRM for docket CGD 83–043. The intervals proposed in the NPRM for docket CGD 83–043 also line up for small passenger vessels because they would match the triennial inspection for certification interval proposed in this SNPRM. Owner/operators would also have the flexibility to perform the tests and inspections at the proposed time of drydocking (both 2 and 5 years), if this would be more convenient. An additional advantage will be that pressure vessel internal examination intervals for all vessel types would now be the same. The wording of § 176.812 has not been revised in this SNPRM. This reflects the Coast Guard's position that the period proposed in the NPRM for docket CGD 83–043 will be in effect before final rules for subchapter T are published. The Coast Guard does not consider it necessary to repeat the Subchapter F requirements in this section.

Section 176.910 Passenger Ship Safety Certificate

Paragraph (a) of this section in the NPRM requires that a vessel which carries more than 12 passengers on an international voyage must have a valid SOLAS Passenger Ship Safety Certificate. It specifically exempts a vessel on a voyage between the continental United States and Alaska or Hawaii, or between Alaska and Hawaii, from the requirement for a SOLAS certificate, although under the definition of "international voyage" in § 175.400 of the NPRM such a voyage is an "international voyage". One comment objected to the proposed exemption for SOLAS certificates for such vessels stating that vessels on voyages between the continental United States and Alaska or Hawaii, or between Alaska and Hawaii, should be considered to be on international voyages. The Coast Guard disagrees and for the purposes of this subchapter has revised the definition of "international voyages" by deleting the reference to voyages between the continental United States and Alaska or Hawaii, or between Alaska and Hawaii, for the reasons noted under the discussion of comments on § 175.400 in this preamble. Correspondingly, the references to such voyages have not been included in § 176.910(a) in this SNPRM.

Section 176.910(a) also states that the Commandant will issue SOLAS Passenger Ship Safety Certificates. Commandant (G–MVI) will continue to issue all initial SOLAS certificates to a vessel. Commandant (G–MVI) has recently delegated authority to OCMIs to reissue SOLAS Passenger Ship Safety Certificates, as well as SOLAS Exemption Certificates. Whenever any changes to the vessel or its operations occur necessitating a change to the SOLAS Passenger Ship Safety Certificate or SOLAS Exemption Certificate, such revised certificates must be issued by Commandant (G–MVI). Both § 176.910(a) and § 176.920(d) have been revised in this SNPRM to reflect this change.

Section 176.932 Equivalency for Voyages to The Bahamas

This section lists the criteria for the Commandant to determine that a vessel complies with requirements equivalent to SOLAS requirements for small passenger vessels operating between the Bahamas and Florida. Several comments were received questioning the limitations of the equivalency. The United States accepted the equivalency under Regulation 5, Chapter 1, of SOLAS, the provisions of which are repeated in § 176.930. Other equivalencies to SOLAS would also be considered. For instance, the U.S. recently accepted another equivalency by considering the requirements of subchapter T equivalent to SOLAS requirements for small passenger vessels which: (1) Do not proceed more than 20 miles from land; (2) carry not more than 150 passengers; (3) have overnight accommodations for less than 50 passengers; (4) have inflatable survival craft for 100% of the persons on board; and, (5) are certificated for an oceans route. Because any equivalency must be applied on an individual, case-by-case basis, and because additional equivalencies may be accepted in the future, the Coast Guard's position is that it is best not to incorporate the provisions of specific equivalents for small passenger vessels into regulation. Therefore, proposed § 176.932 has been deleted.

Part 177—Construction and Arrangement

Section 177.115 Applicability to Existing Vessels

Several comments stated that an existing vessel must always be grandfathered regardless of any changes in construction or arrangements on the vessel. The Coast Guard disagrees and believes that any significant alteration or change in the design of the hull or superstructure of a vessel should be done in compliance with any revised requirements applicable to the change. However, such a change would not automatically result in the vessel being considered a "new vessel," which must comply with all the new requirements proposed by this SNPRM, unless the vessel is considered to have undergone a "major conversion" as defined in § 175.400.

The last sentence of this section, as proposed in the NPRM, stated that repairs or maintenance conducted on an existing vessel, resulting in no changes to the original structure or arrangement of the vessel, must comply with either the new or the existing regulations. One comment stated that this sentence is too broad because it depends on a judgment call by a marine inspector, presumedly to determine if any changes were made or not, and this would result in inconsistencies of application of the regulations to vessels in the same zone, and to vessels in different zones. A major purpose of this rulemaking is to reduce inconsistencies in the application of regulations. However, a determination as to whether a change has been made to the structure or arrangement is normally not difficult

and any disagreements with an inspector's decision can be appealed.

One comment stated that existing uncertificated vessels constructed more than 5 years before being certified and which carry less than 150 passengers should have to comply only with the proposed regulations in part 177 as much as possible. This category would include present uninspected passenger vessels or bareboat vessels which do not have to comply with subchapter T. The Coast Guard disagrees. Such vessels should generally be treated as new vessels. There are sufficient provisions in subpart C of part 177 to allow an owner of a vessel to prove the structural soundness of the vessel's hull by other than specific design criteria. There are also sufficient provisions for equivalencies if an owner believes the design or arrangement of a vessel is as effective as that required by part 177. The structural fire protection requirements proposed in this section of the NPRM would apply only to vessels proposed in this SNPRM to be regulated by the new subchapter K. Therefore, they no longer appear in part 177 of subchapter T, as proposed in the SNPRM, but only in part 116 of subchapter K. In light of the changes made to the structural fire protection requirements, the Coast Guard perceives that many existing vessels may want to make use of the wider range of materials allowed for bulkhead and ceiling linings, carpets, and similar items. The increased use of fire retardant materials, in lieu of present requirements for noncombustible materials, was based in part on the increased fire protection and detecting requirements in subchapter K, part 118. Owners which upgrade the interior furnishings and finishings of their vessels, using the requirements of subchapter K, part 116, must also ensure their vessels meet the requirements of subchapter K, part 118.

Section 177.202 Plans and Information Required

Numerous comments stated that the additional plans required by this section are costly and unnecessary, will add to plan review time, and may require additional Coast Guard billets for plan review. The comments went on to state the required information would result in more than the minimal cost and effort discussed in the preamble of the NPRM and the evaluation. The comments estimated that engineering costs could rise 25 to 120 percent. On the other hand, one comment stated that additional "structural" plans, other than a "Midship Section", were needed. The Coast Guard disagrees with all of these comments. The OCMI has always had, and still has, the authority to request that additional information and plans be submitted by the owner or builder. Not all of the information under paragraph (a) may be applicable to every vessel. Under paragraphs (a) and (b) the OCMI determines what level of information is necessary. Most of the new information listed in this section is already provided in plans and blueprints presently submitted to the Coast Guard. Many OCMIs have plan review information packages which amplify existing plan submittal requirements, and many boat builders have received letters asking for additional information before their plans can be approved. This section more clearly specifies the information the Coast Guard wants submitted. The Coast Guard envisions that this list will not substantially change the amount of information already required by most OCMIs. The list of necessary information does not require that separate plans be submitted for each item. The information can be put on as few or as many plans deemed necessary by the designer, as long as all information required by the OCMI is provided.

One comment suggested that production boats built to ABYC standards, as allowed by §§ 182.130 and 183.130 for small passenger vessels of not more than 65 feet in length carrying not more than 12 passengers, should not have to undergo the extensive plan review normally required. A manufacturer could demonstrate the stability of a vessel, and all vessels in that class could then be accepted. The Coast Guard agrees. Section 177.315 provides guidance concerning OCMI acceptance and approval of the scantlings for these vessels.

One comment questioned the requirement to submit plans to the OCMI, noting that it has been the practice to submit plans to the Marine Safety Center for small passenger vessels more than 65 feet in length or having large passenger capacities. The procedure outlined in the NPRM requires initial plan submittal for all vessels to be made to the OCMI. This ensures that each OCMI becomes aware of all new construction being planned to occur in his or her zone. The OCMI may then authorize plan submittal directly to the Marine Safety Center for larger small passenger vessels, if the OCMI desires or as Coast Guard policy dictates.

Two comments expressed the concern that long Coast Guard plan review and approval times, due to a great increase in plans and corresponding greater time for review, would delay construction of a vessel. One of the comments recommended a time limit for Coast Guard plan approval. The Coast Guard does not consider a time limit necessary to remedy the problem of long plan review time. Owners, designers, and builders should submit their plans in advance of the construction date.

One comment thought the provision in paragraph (a), concerning submission of plans prior to construction, "if practicable", conflicts with § 176.402(a). The comment recognizes that plans should be submitted before construction, and that OCMIs must continue to exercise good judgment in this matter, as they have in the past, but states that plans should always be submitted before construction or inspection begins. The Coast Guard does not see a conflict. Section 177.202(a) has been changed by replacing the phrase "if practicable" with "unless otherwise allowed by the OCMI." The intent of paragraphs (a) and (d) of this section is to make builders realize that construction of a vessel without approved plans is at the builder's and owner's risk.

One comment stated that 3 sets of plans would be necessary if the Marine Safety Center reviews the plans as allowed by paragraph (c). The Coast Guard agrees because this would allow the Marine Safety Center to retain a copy, provide an approved copy to the OCMI, and return an approved copy to the builder/designer. In addition, it is current policy to submit 3 copies of all documents for Marine Safety Center approval. This paragraph has been changed to require submission of 3 sets of plans.

Section 177.210 Plans for Sister Vessels

Two comments asked that "sister vessel" be defined. OCMIs will be able to determine whether any two vessels are sister ships without a specific definition. Some factors that have been judged to be important are: Construction material, construction method, machinery systems, (including type, number and size of main engines) interior layout, and, type and number of overnight accommodations. Some differences which at first seem minor, such as location of water and fuel tanks, size and height of deckhouses or bridges, and location of machinery, may affect stability and cause the vessels to not be considered sister vessels. For fiberglass vessel construction, the lay up schedule, and type of resins used could affect the determination of whether two vessels are sisters. Technical criteria for the determination of sister vessels is given in chapter 6 of volume IV of the MSM.

One comment expressed concern about the requirement for having approved plans for a sister vessel on file at the local OCMIs office. The comment pointed out that: (1) The OCMI in the zone where the first vessel was built may not want to transfer a set of prints from a new construction file because the plans may be needed for future use; and (2) owners rarely get approved construction plans from the builder. The intent of this section is that the OCMI which will be inspecting the vessel while it is being built must have a set of approved plans before construction is started. If the prospective owner cannot obtain a set by transferring or copying those on file at a Coast Guard office, the normal plan approval process must be initiated in accordance with § 177.202.

Section 177.300 Structural Design

The proposed rule lists specific structural design standards acceptable for the construction of small passenger vessels. One comment suggested additional introductory text to point out that the standards listed in the proposed rule are adequate for all services. One comment noted that the listed standards in the proposed rule did not adequately address inland routes, and recommended ABS guidance for vessels of not more than 65 feet in length. These comments point out that most of the listed standards are for unrestricted open water (i.e., oceans) service. Owners, operators, or designers desiring approval of reduced scantlings for their vessels because of operation on a less severe route, could apply under §§ 177.310 or 177.340.

Four comments pointed out that for protected routes, ABS rules for inland service, or equivalent, would be satisfactory for the hull structure. The Coast Guard agrees that guidance and standards are necessary. For a long time Coast Guard policy has been that inland vessels made of steel should be designed to the ABS Rules for Building and Classing Steel Vessels in Service on Rivers and Intracoastal Waterways. No problems have been encountered. The proposed rule has been changed to include this standard.

One comment suggested adding ABS Rules for Classing Steel Vessels and Det norske Veritas (DnV) Rules for Classing of Steel Ships. Two comments suggested allowing the use of DnV Rules for Classification of High-Speed Light Craft. The Coast Guard disagrees. Small passenger vessels are generally not large enough to have to comply with the ABS Rules for Classing Steel Vessels or the DnV Rules for Classing of Steel Ships, and the DnV Light Craft Rules have not yet been widely accepted by builders and designers in this country. Any of these rules might be acceptable as alternative design criteria for specific vessels under proposed § 177.340. No change was made to the NPRM.

One comment suggested adopting a standard for wood vessels that is more current than Lloyd's, which the comment believed was outdated. The Coast Guard disagrees, because alternate and more recent standards of a similar scope do not exist. Nor does the age of a standard mean it is deficient for vessels of the type for which it was written. The proposed rule has not been changed.

Many comments suggested referencing NVIC 11–80 on aluminum crew boat construction, or even replacing the proposed standards for aluminum vessels with NVIC 11–80. One comment questioned if NVIC 11–80 is considered to be an adequate standard for aluminum small passenger vessels that are not in the mineral and oil (M&O) industry. The Coast Guard accepts the guidelines in NVIC 11–80 for many vessels which do not operate in the M&O industry since structural standards apply to general categories of hull shapes in general types of environments. There is no reason to change the engineering standards provided in NVIC 11–80 for application to any small aluminum vessel. Consequently, any hard chine aluminum planing hull of moderate length can be suitably evaluated with NVIC 11–80. Its use would be permitted under § 175.540. NVIC 11–80 is not listed in the proposed rule because NVICs may not be cited in the CFR since they are policy documents. No change was made to the NPRM.

One comment suggested that the listed standards be dispensed with if a vessel manufacturer proves compliance with another industry standard, such as ABYC, but noted that the available alternatives are not known. The Coast Guard agrees that the listed standards are generally not intended for small vessels, and commercial boat standards may be suitable. Proposed § 177.315 specifically provides for small vessels. Sections 177.310 and 177.340, as well as the equivalency provision of § 175.540, also allow for alternatives to § 177.300. The proposed rule has not been changed.

One comment stated Lloyd's rules are inadequate for catamarans and recommended using industry experience to determine acceptable rules. The comment also stated that Coast Guard use of the "in-house immersion of up to six feet full under water rule" results in acceptable vessels being rejected. The Coast Guard agrees that Lloyd's rules may not be adequate for multihulls because composite design has gone beyond the state of the art in structural design which existed at the time when many of the listed standards were developed. The Coast Guard is working toward setting a standard for composite construction and is relying upon industry involvement to ensure that any standard developed is appropriate. In the interim, proposed § 177.340 on alternate design considerations may be used. The rule objected to by the comment is no longer in use, and has not been for some years. The proposed rule has not been changed.

One comment suggested adding a new section concerning structural standards required for pontoon vessels and catamarans. Current Coast Guard policy is that each hull of a multihull vessel must meet the structural standards for a monohull of the same size and service. Multihull cross structures and pontoon vessels receive special consideration based on sound design and engineering principles. No change was made to the NPRM.

One comment stated that we should incorporate by reference the destructive test standards of the American Society of Testing and Materials (ASTM) for testing FRP. The Coast Guard's position is that the specific incorporation of such standards into subchapter T is presently unnecessary. Although there is presently no regulation addressing destructive tests or standards, both ABS and Lloyd's rules for the structural design of FRP, which are proposed for incorporation by reference, address the need for destructive testing of FRP and refer directly or indirectly to ASTM standards. NVIC 8–87, entitled "Notes on Design, Construction, Inspection and Repair of Fiber Reinforced Plastic Vessels," also provides guidance on the testing of FRP using ASTM standards. No change has been made to the NPRM.

Section 177.310 Satisfactory Service as a Design Basis

The rule, as originally proposed, provided for the acceptance of scantlings found to be equivalent to those on another vessel of not more than 65 feet in length that has had satisfactory structural service for at least five years. It was adopted from existing § 177.10–1(a). As a substitute for using the standards in § 177.300, satisfactory structural service can be used for new construction design or for structural approval of existing vessels which are desired to be certificated. This latter method has been used often in the past. This section has been revised to more clearly show that the vessel in question

may itself provide the evidence of satisfactory service after five years of satisfactory operation with no hull or internal structural problems.

One comment said the term "approximating the same size, power, and displacement" was too vague. The Coast Guard disagrees. For the purpose of structural suitability very minor differences are generally of little consequence. To require exact duplication would severely limit the scope of the proposed rule. The NPRM was not changed.

One comment suggested that 5 years is an insufficient period to ascertain satisfactory design and believed that many vessels, especially those of FRP construction, fail after the age of 5 years. The Coast Guard disagrees because casualty data does not show any instances of major structural failure or loss of life due to inadequate design. The proposed rule has not been changed.

One comment agreed with the 65 foot length limitation, stating that the structural adequacy of large vessels should be determined by basic principles. Seven comments suggested removing the 65 foot length limit for application of the 5 year rule. The Coast Guard agrees that the limit should be removed. Design standards are available for larger vessels and they are easy to use. The concept should not be restricted to vessels of a certain size because casualty data does not indicate that the lack of a length limitation in the existing rules is a major problem. The proposed rule has been changed by removing the length limitation.

The Coast Guard has considered the question of the applicability of this section to vessels which will carry more than 150 passengers or have overnight accommodations for more than 49 passengers (i.e., those vessels proposed to be regulated by subchapter K). The Coast Guard has determined that, although the length limit for application of this section is being removed, this section is not appropriate for vessels carrying such large numbers of passengers and will not be included in subchapter K.

One comment suggested the regulations stifled research and development by requiring new vessels to be designed like old vessels, rather than encouraging new designs. The Coast Guard disagrees. Proposed § 177.340 allows novel designs and new construction materials resulting from research and development to be reviewed by the Marine Safety Center. The regulations ensure a minimum level of safety, reducing the impact upon industry by applying the least costly and easiest method of structural evaluation possible. The proposed rule has not been changed.

One comment stated that it would be difficult to adequately document the area and frequency of operation for many recreational vessels and vessels carrying not more than six passengers. This lack of adequate documentation could result in unfair competition between vessels built to a design standard versus those modeled on recreational vessels. The Coast Guard agrees that any procedure intended to be flexible may result in some inequities, but considers the requirements proposed in the NPRM workable. The existing vessel should have experienced the same operating environment planned for the new vessel, and show satisfactory service in that environment for five years. Pages 1–3 through 1–4 of NVIC 8–87 give guidance concerning the 5 year rule, which can be applied to all vessels, not just those of FRP construction. The burden is upon the designer or owner to show the similarities between the proposed and existing vessels. The OCMI has the responsibility for determining the adequacy of any documentation submitted. The proposed rule has not been changed.

Section 177.315 Vessels of Not More Than 65 Feet in Length Carrying Not More Than 12 Passengers

This proposed section allows the OCMI to approve the scantlings of a vessel of not more than 65 feet in length and carrying not more than 12 passengers if the builder of the vessel can show that the design and construction of the vessel is adequate for the intended service. Four comments suggested deleting this proposed rule or specifying guidance on adequate standards, possibly NMMA standards. The Coast Guard disagrees. A provision is needed for small vessels not of a novel design which: (1) Due to their size and service may not need to be built to the design standards of § 177.300; or (2) lack adequate service time to meet the 5 year requirement of § 177.310. No criteria are specified in order to allow the OCMI flexibility when approving these smaller vessels. The Coast Guard envisions that a designer or builder, whose qualifications the OCMI is assured of, may be able to demonstrate the adequacy of a hull structure to an OCMI by comparison with: (1) Regional standards which experience has shown are adequate; (2) a specific manufacturer's criteria which experience has shown are adequate; or (3) calculations other than those provided for by § 177.300.

One comment suggested requiring compliance with recreational vessel standards to minimize OCMI discretion and inconsistencies. The Coast Guard is not aware of any structural standard which has been widely accepted by recreational boat builders. The OCMI has authority to determine the appropriateness of a proposed vessel's structure. The proposed rule has not been changed.

One comment suggested deleting this proposed rule because NMMA approval is not structurally sufficient for seagoing vessels, and further stated the proposed rule would effectively allow recreational vessels, suitable only for a maximum of 6 passengers, to carry 12 passengers. The Coast Guard is not aware of an NMMA structural standard. Flexibility is needed to accommodate small vessels. Under this section OCMIs may require additional evidence of the adequate design and strength of the vessel. The proposed rule has not been changed.

One comment suggested removing the 65 foot vessel length limitation since good structural design is not a function of length. The Coast Guard disagrees because the proposed rule is intended to minimize the impact of regulations on small vessels for which structural standards are not readily available, whereas suitable standards do exist for larger vessels. A length limit is also necessary to limit the inconsistency that might result from such a flexible requirement. The proposed rule has not been changed.

Section 177.330 Sailing Vessels

The proposed rule requires suitable rigging for sailing vessels and permits the OCMI to require design calculations. One comment questioned the availability of standards. The Coast Guard is not aware of any existing suitable standards for modern rigging. Cooperative efforts with industry are underway to develop a suitable standard for sailing school vessels. The proposed rule is intended to ensure that appropriate consideration is given by the designer to the adequacy of the rigging, and does not require that a particular standard be met. Routine plan review is not expected, partly due to the lack of suitable design standards. This section is similar to existing paragraphs (b) and (c) of part 169, § 169.309 which apply to sailing school vessels. The proposed rule has not been changed.

Section 177.340 Alternate Design Considerations

The proposed rule provides for review of calculations for designs which cannot be properly evaluated with existing

structural standards or within the framework of the other proposed rules. One comment suggested permitting the "first principles" approach for all small passenger vessels to permit advances in novel craft. The Coast Guard agrees, and anyone desiring to submit a first principles design analysis for any type of vessel may do so. But first principles analysis is only necessary when a new design or technology is being used. The adoption of design standards ensures a uniform level of safety. Further, the Coast Guard does not have the resources to review first principle approach calculations for every small passenger vessel. Experience has shown that industry and the Coast Guard benefit from the time saved by using design standards rather than the long involved process associated with first principles. The proposed rule has not been changed.

One comment suggested adding "for initial evaluation and forwarding to Commandant" at the end of this section. The Coast Guard agrees. However, it is the Marine Safety Center which has the responsibility for evaluating design calculations based on first principles, whereas Commandant (G–MTH) generally performs the concept review. In this SNPRM, the proposed rule has been changed to incorporate this comment.

Subpart D—Fire Protection

The following remarks, which address the comments received on this subpart of the NPRM, are arranged in order of the section numbers proposed in the NPRM. However, many of these proposed sections which would have applied only to vessels carrying more than 150 passengers or having overnight accommodations for more than 49 passengers, are now proposed to be regulated by subchapter K. Therefore, many of these sections no longer apply to subchapter T vessels and do not appear in part 177, but are in part 116 of subchapter K.

In analyzing the numerous comments, the Coast Guard took a systems analysis viewpoint of small passenger vessels. For example, it is very difficult to evaluate requirements for flammability of interior finishings and furnishings without considering the type and amount of fire detection and extinguishing systems. It is important to remember relaxations in one system might be made because of stricter requirements in another.

In order to make these requirements simpler to understand and easier to use, the Coast Guard has revised the arrangement of the sections found in subchapter K by splitting them into more, but smaller, sections consistent with subject areas. The section numbers for a subject area may no longer correspond to those in the NPRM.

Section 177.400 General Arrangement and Outfitting

This section has been changed in several ways. It has been renumbered as § 177.405 (K–§ 116.405). Some requirements concerning combustible materials, such as plastic piping, have been moved to this section because they are more easily associated with minimizing fire hazards in construction and outfitting than with interior finishes.

Paragraph (c) of the NPRM has been simplified by deleting the subparagraph which allows watertight engine boxes as a substitute for vaportight bulkheads. Although this is still an unobjectionable equivalent, it need not be stated in regulation.

Paragraph (f) of the NPRM would have required all waste receptacles (trash cans) to be noncombustible and without openings in the sides or bottom. One comment thought this requirement should be applicable to existing vessels as well as new vessels. One comment suggested that noncombustible waste receptacles should only be required in "high risk" areas such as engine rooms. Numerous comments stated that metal cans were unsightly, rusty, and hard to keep clean, and believed plastic cans should be allowed. Combustible trash cans perform poorly in a fire. A typical scenario involves ignition of the receptacles contents by a discarded cigarette. A fire in a noncombustible trash can may be contained by putting a lid on top of it and smothering the fire. Combustible trash cans are easily breached by the fire and this technique cannot be used. Combustible trash cans fail to contain the fire once it is established and add to the fire load. They may also be tough to jettison because of breaching. This paragraph has been changed in this SNPRM so that existing vessels must also meet the requirement to have noncombustible waste receptacles. SOLAS approved noncombustible composite trash cans are available for those who would like to use them.

Paragraph (g) of the NPRM proposed to limit paint thickness on interior surfaces of enclosed or partially enclosed spaces to .075 inches or less. A number of comments objected to this requirement and wanted it deleted. Most stated that the requirement would be difficult to meet and difficult to enforce. The Coast Guard recognizes the concerns posed by the comments and has deleted the requirement in this SNPRM.

Paragraph (g) of the NPRM also proposed to prohibit nitrocellulose paint, which is no longer used in standard vessel construction and outfitting practices. The specific prohibition is no longer necessary and has been deleted in this SNPRM.

Paragraph (h) of the NPRM required mattresses to comply with 16 CFR part 1632, subpart A (FF–4–72.10). Regardless of the size of vessel, mattresses must not contain polyurethane foam. One comment said that this should only be applicable to vessels carrying over 150 passengers. Another agreed that polyurethane foam should be restricted from use in mattresses. One comment stated that the "California Standard" for smoke/toxicity/ignitability should be cited. Another comment said that "toxic when burning" foam should be banned from vessels carrying less than 150 passengers. Polyurethane foam is a notoriously poor fire performer. The Coast Guard is proposing to retain the requirement that prohibits polyurethane foam from use in mattresses and has redesignated this requirement as paragraph (g) in this SNPRM. It should be noted that this material is banned from use in public buildings in the U.K. and France. Upholstered furniture and furnishings are often padded with this type of foam. Because furniture and furnishings are a primary fuel source in most fires, polyurethane foam would not be allowed in furniture or furnishings under paragraph (h) of this SNPRM. This is consistent with the Coast Guard's position on material used in mattresses. The California Bureau of Home Furnishings requirements are not incorporated into the SNPRM to prevent undue difficulty in obtaining mattresses or other items made of polyurethane foam in areas where furnishings for the California market are not available.

Section 177.420 Structural Fire Protection for Vessels Carrying Not More Than 150 Passengers or With Overnight Accommodations for Not More Than 49 Passengers

The NPRM proposed to require that the resin used on FRP vessels have an ASTM E–84 flame spread rating of not more than 100, and that surfaces within 3 feet of cooking areas have a flame spread rating of not more than 75. Most comments, including those from builders, architects, ABYC, and NMMA objected to the use of fire retardant resins, primarily citing cost and lay up difficulties. Two comments recommended incorporating the equivalency criteria contained in NVIC

8–87, but also recommended retaining the requirement for MIL–21607 resin. As a matter of policy, the Coast Guard has allowed the use of general purpose resins (NVIC 8–87 as amended by G–MVI letter 16703/46 CFR 177.10–5 dated 21 September 89) provided that a number of additional measures are taken to ensure a comparable level of fire safety. This is the basis for the revision to the NPRM. Resin with an ASTM E–84 flame spread rating of 100 is available and is not hard to find. Although smaller fiberglass shops generally don't carry it, this resin is available from larger suppliers. Resins with an ASTM E–84 flame spread of 100 or less costs 50–60 percent more than general purpose resins. This SNPRM proposes to allow general purpose resin to be used provided that the additional requirements and restrictions previously found in NVIC 8–87 are met. This will effectively provide industry an option of either meeting the fire retardant resin requirements or the equivalency criteria.

A recent Commandant decision concerned the use of general purpose FRP resin alone, or of a thin layer of FRP layed up using general purpose resin, as an interior coating or paint on a wooden vessel. Use of FRP resin or a thin FRP layer as an interior paint or finish on vessels constructed of wood or other non-fire retardant material (except FRP) is acceptable as long as it is for non-structural purposes. In this particular case, the Commandant determined that the maximum thickness of the general purpose FRP should not be thicker than .075 inches, based on present interior finish requirements and the flammability of general purpose resin. Essentially, the Coast Guard believes there is no reason for an interior finish this flammable to be thicker than .075 inches. Interior FRP coats on vessels constructed of FRP would be required to meet §§ 177.410(c) and (d) of this SNPRM.

Three comments objected to the requirement that surfaces within 3 feet of cooking appliances have an ASTM E–84 flame spread rating of not more than 75. This requirement remains because cooking and heating appliances are the second most common ignition source of small passenger vessel fires. In the event that surfaces within 3 feet consist of a laminate facing and backing material such as plywood, only the laminate facing must meet the flame spread requirement when subjected to the ASTM E–84 test. There are laminate facings which meet this requirement. Stainless steel, other sheet metal surfacing, or other noncombustible material would also be satisfactory.

Section 177.430 Fire Control Boundaries for Vessels Carrying More Than 150 Passengers

This section has been moved to subchapter K, § 116.415. The NPRM would have required the hull, structural bulkheads, columns, stanchions, superstructures, and deckhouses to be composed of "steel or equivalent material." Three comments believed that the NPRM stated that vessels could only be built of steel, not aluminum. These concerns are unfounded. Under the definition of "steel or equivalent material" found in proposed § 175.400, aluminum construction is allowed. When aluminum is used, it is subject to additional insulation requirements in order to improve its fire performance so that it becomes comparable to that of steel. Aluminum inherently has a much lower fire resistance since it loses approximately half its strength at a temperature of 400 degrees F. Steel, on the other hand, must be heated to 1100 degrees F before losing half of its strength. Therefore, an aluminum structure must be insulated in order to achieve only an A–0 classification.

Fire endurance requirements for bulkheads and decks were proposed in Tables 177.430 (c) and (d) of the NPRM. Two comments expressed concern that although these tables are economically suitable for steel construction, they are too costly for aluminum construction. One of the comments proposed a separate set of tables for aluminum vessels that upgraded deck and bulkhead fire endurance requirements in many locations but also reduced A-Class structure to C-Class in others. This resulted from a proposed substitution of uninsulated aluminum (C-Class) for uninsulated steel (A-Class). The Coast Guard's intention, by having only one set of bulkhead and deck classification tables, was to assure a uniform measure of structural fire integrity for all passenger vessels subject to this subpart, regardless of the construction material or type. Adopting a different set of tables for different construction types would defeat this purpose and would lead to confusion during design and construction.

Guidelines explaining how to insulate aluminum are found in NVIC 6–80 and in the Society of Naval Architects and Marine Engineers (SNAME) Technical and Research (T&R) Bulletin 2–21, which is referenced by NVIC 6–80. Two comments suggested that SNAME T&R Bulletin 2–21 be used to determine the insulation requirements for aluminum structure. In fact, for many years these documents have been used by designers to successfully meet structural fire protection insulation requirements. The basis of SNAME T&R Bulletin 2–21 is full scale fire testing, which was done at the National Institute for Standards and Technology. These full scale tests established what amount of insulation was necessary for aluminum to achieve equivalence to A–0, A–30, and A–60 steel fire resistance. The SNAME Bulletin outlines two separate and acceptable methods of determining acceptable insulation arrangements for aluminum decks and bulkheads. The first method is prescriptive in that an insulation thickness is specified that will bring the bulkhead or deck classification up to that required by regulation. Four comments recommended that insulation requirements be based on the fire load of the subject space. This is, in fact, the second approach allowed by the SNAME T&R Bulletin. In spaces where the fire load is low (less than .5 pounds per square foot), uninsulated aluminum structure is allowed. Therefore, uninsulated aluminum (C-Class) may be used where uninsulated steel (A-Class) is currently required, provided that the fire load is less than .5 pounds per square foot. Further relief is found in NVIC 6–80, which allows the use of uninsulated aluminum bulkheads and decks in locations that separate water tanks, ballast tanks, and voids from open deck areas. Additionally, aluminum weather decks need not be insulated per NVIC 6–80.

Subparagraph (b)(5) of this section allows main horizontal zones (MHZs), instead of main vertical zones (MVZs), for vehicle decks on vehicle ferries. One comment recommended a wording change stating that vehicle decks on ferries must be subdivided, where MVZ's are impractical MHZ's may be used. The Coast Guard agrees and has clarified this in this SNPRM.

Paragraph (c) of the NPRM outlines fire ratings for bulkheads and decks, such as A–60, A–15, or B–15. Two comments were concerned that a space with an emergency generator could be separated from a control space by only B–0 bulkheads because the definition of control space includes those spaces that contain an emergency source of power. The Coast Guard agrees this could be a problem. In this SNPRM, the definitions of "control space" and "machinery space" have been modified to include a space with electrical generators under the category of a machinery space.

Section 177.432 Fire Load and Outfitting on Vessels Carrying More Than 150 Passengers

This section of the NPRM which outlines the requirements for fire load

calculations, has been moved to subchapter K, §§ 116.422, .423, .425, and .427. In order to simplify finish and furnishing material and fire load requirements, the Coast Guard has broken this section of the NRPM into a number of smaller sections. In this preamble, the requirements will be referred to by the section and paragraph number used in the NPRM.

Five comments believed that materials included in fire load calculations required by paragraph (b) should not be subject to the flame spread and smoke generation requirements of paragraph (c). Some comments stated their concerns in a slightly different manner by saying that materials with low flame spread and smoke generation properties shouldn't be included in the fire load calculation. One comment stated that all combustibles should be included in the fire load calculation, including items such as cable insulation and light diffusers. One comment wanted to know how the maximum fire loads were determined.

From the comments received, it is apparent that there is wide spread misunderstanding regarding the definition of fire load and the role of low flame spread, low smoke generation materials. Fire load is an important measure of a potential fire's duration and intensity. This has direct impact on structural integrity because the longer a structure is exposed to a fire, the more it will heat up, resulting in a loss of rigidity. Thus, there is a need to control the fire load as well as to insulate the structure itself. Fire load calculations must contain all combustibles in a space; in other words, everything that will burn. The concept of limiting the amount of combustible material used in construction is inconsistent with exempting low flame spread, low smoke-generating materials from the fire load. These materials may be less hazardous than others but they are still combustible and will add to the duration and intensity of a potential fire. They must, therefore, be included in the fire load calculation.

Limiting flame spread and smoke production are separate fire protection principles that have important life safety implications. Rapidly propagating flames or high smoke production rates pose serious threats to effective egress and human life. Therefore, the concept posed by some comments of allowing any and all types of construction materials in a space so long as they are included in a fire load calculation is also inappropriate. The break points in the NPRM, of 3 pounds per square foot and 6 pounds per square foot for the fire load of low and high risk accommodation spaces, respectively, were chosen from a comparison with fire loads in similar shoreside occupancies. The NPRM proposal to designate accommodation spaces as either high risk or low risk, based on the fire load, has not been used in this SNPRM. This was done to simplify design and construction requirements, and to maintain a uniform measure of structural fire protection on all small passenger vessels to which this subpart applies. Accommodation spaces designated as high and low risk in the NPRM (Type 4 & 5 spaces) are now designated solely as accommodation spaces (SNPRM Type 4). Tables 177.430 (c) and (d), now Tables 116.415(b) and (c), have been revised to reflect this. The tables in the SNPRM are based on those from the NPRM, using high risk accommodation space (NPRM Type 4) requirements, vice low risk accommodation (NPRM Type 5) requirements, to provide a greater measure of protection at the minimal expense of an additional 1/2" to 1" of thermal insulation. The only proposed exception involves bulkheads separating adjacent accommodation spaces (SNPRM Type 4) which were required to be rated A–15 in the NPRM but have been revised to B–15 in this SNPRM. This simplifies construction and is consistent with the requirements for large passenger vessels. In addition, the maximum fire load for all accommodation spaces (SNPRM Type 4) has been established as 7.5 pounds per square foot of deck area, consistent with longstanding Coast Guard policy found in NVIC 6–80.

The Coast Guard thinks that as a result of the fire detection and extinguishing systems which will be installed on these vessels, and the reduced use of combustible materials, fire load calculations will not be necessary for most vessels which will be built. Therefore, fire load calculations will not be required unless the cognizant OCMI determines that the fire load being put into the vessel is large enough to warrant them. Under new § 116.427, the cognizant OCMI can require fire load calculations at any point in a vessel's life span if it is determined that fire load growth has occurred to the point that the actual fire equivalent mass must be increased by a ratio of the heat of combustion of the material divided by the heat of combustion of wood. The explanation of fire load calculations in § 114.400(b)(3) has also been revised to clearly indicate that it includes all combustibles including items such as light diffusers and cable insulation. The confusing wording in § 177.432(c) of the NPRM, which includes low flame spread materials in calculation of fire loads for some spaces but not in others, has been revised so that all combustibles are included.

One comment stated that a structural fire protection plan should be carried onboard each vessel. The Coast Guard agrees. A new § 116.530 has been added requiring subchapter K vessels to have a Fire Control Plan posted.

Paragraph (c) of the NPRM prescribes allowable flame spread and smoke generation characteristics for ceilings, interior finishings, and deck coverings. Numerous comments requested that materials acceptable for shoreside use in similar occupancies be accepted for use on small passenger vessels, and recommended the approval of NFPA 101 Class A interior finishes. Class A interior finishes are considered inappropriate for use because they have smoke developed ratings that are 45 times greater than those that would have been permitted by the NPRM. Smoke is the primary hazard in most fires. While these materials are routinely used in shoreside installations, those shoreside installations must also be fitted with automatic sprinkler systems. This balances the increased hazard posed by Class A interior finishes. The Coast Guard has historically taken the approach that the best method of preventing the spread of fire is by limiting the amount of combustibles used in construction. Internationally, other countries have permitted higher amounts of combustible material when automatic sprinklers are also fitted. However, the U.S.-adopted philosophy of limiting combustibles is now the required method of construction for new vessels worldwide.

Combustible acoustical materials that are listed by Underwriters Laboratories and have an ASTM E–84 or UL 723 flame spread rating of not more than 20 and a smoke developed rating of not more than 10 were proposed by the NPRM for use in ceilings. The Coast Guard has found that more than 40% of UL listed ceiling tiles meet the proposed criteria, and can be available from a number of manufacturers (including Armstrong, Celotex and USG Interiors) within 7 days. The Coast Guard has also found that more than 50% of the UL listed interior finishes meet the criteria proposed in the NPRM and are readily available from several manufacturers (including Sherwin Williams and Glidden) through sources such as commercial building suppliers. Therefore, the original requirements of

the NPRM have been retained in this SNPRM.

Many of these products may simply be labeled as Class A materials (because they have an ASTM E–84 flame spread rating of less than 25 and smoke developed rating of less than 450) without specific rating information. Specific ratings can be obtained from product data sheets on hand with the distributors.

There is also some apparent confusion concerning use of Coast Guard approved materials. Neither the NPRM nor this SNPRM require Coast Guard approved materials to be used for acoustic ceilings or interior finishes, although Coast Guard approved materials are certainly acceptable. Materials which are used need only meet the test and thickness requirements of this section.

One comment indicated that requiring interior finishes to have ASTM E–84 or UL 723 flame spread and smoke developed ratings of not more than 20 and 10, respectively, was sufficient and that limiting the thickness to .075 inches was redundant. The Coast Guard disagrees. It is important to limit the amount of fuel that is mounted vertically, such as on bulkheads, because burning is much more vigorous and flame spread is much greater on materials that are mounted in the vertical orientation. The requirement has been retained.

As discussed previously, the .075 inch thickness limit for paint has been removed. It is important to note that, although the definition of "interior finish" in § 175.400 (K § 114.400) of this SNPRM could be interpreted to include paint, it is not intended to do so. The definition specifically states this. If an OCMI determines that the characteristics (including flammability) of a paint or any other interior finish are hazardous to the safety of the crew, passengers, or vessel, the OCMI may limit or completely rule out the use of such materials.

Two comments believed carpet should be allowed on bulkheads. The Coast Guard disagrees. Carpets burn much more vigorously in the vertical orientation resulting in greater flame spread. Also, the combustibility rating of carpets has been decreased as discussed below. The NPRM has not been changed.

With reference to paragraph (e) of the NPRM, fire protection requirements for nonmetallic pipe in a concealed space within a control space, accommodation space, or service space have also been added to this SNPRM. The Coast Guard's position is that limited quantities of nonmetallic pipe should be allowed for sanitary service, beverage service, potable water, and other non-vital non-flammable services to facilitate commercial construction practices. Limited quantities of such piping pose a similar problem as electric cable insulation in concealed spaces. Therefore, nonmetallic pipe must have a flame spread rating of not more than 20 and a smoke developed rating of not more than 50 when water filled or 20 and 130, respectively, when dry, when tested in accordance with ASTM E–84 or UL 723. Suppliers and manufacturers have indicated that nonmetallic pipe meeting this criteria is commercially available.

Paragraph (f) of the NPRM allowed combustible insulation in a very limited number of locations. This has been revised in this SNPRM to further limit the locations where combustible insulation can be used. This is appropriate due to the larger number of people at risk on passenger carrying vessels.

Paragraph (g) of the NPRM prescribes allowable flame spread and smoke generation characteristics for deck coverings. Numerous comments want carpet materials that are acceptable for shoreside use in similar occupancies to be accepted for use on small passenger vessels, and recommended the approval of Class I deck coverings (defined in NFPA 101 as being able to withstand a critical radiant flux of not less than .45 watts per square centimeter). The Coast Guard has revised this SNPRM so that Class I coverings would be allowed in all spaces.

One comment believed carpets should not be allowed in machinery spaces. The Coast Guard agrees and is proposing in this SNPRM to extend this requirement to high risk service spaces. Carpet readily absorbs flammable and combustible liquids and then acts as a wick to promote burning, posing serious flame spread problems.

Paragraph (h) of the NPRM established flame spread ratings for the exposed surfaces of case furniture as well as fire resistance requirements for upholstery, draperies, and curtains. One comment stated that it is difficult to find case furniture surfacing materials with an ASTM E–84 flame spread rating of less than 100. The Coast Guard disagrees. Plenty of surfacing materials including most types of wood meet the flame spread requirement. The requirement has been retained in this SNPRM.

Another comment stated that freestanding furniture should be allowed without limit since it can be thrown overboard in the event of a fire. The Coast Guard disagrees because such actions are impractical during fire situations.

Consistent with the approach taken on mattresses, a new § 177.405(g) (K § 116.405(j)) has been added which would prohibit polyurethane from being used in furniture and furnishings.

Section 177.434 Windows and Airports in Fire Control Boundaries on Vessels Carrying More Than 150 Passengers

The comments received on this section, now found in subchapter K § 116.433, were mostly minor in nature. A couple of comments did not understand the reason paragraph (c) limits the base of windows in bulkheads adjoining passageways to 36 inches above the deck. Limiting window bases from being less than 36 inches above the deck is applicable only to bulkheads adjacent to passageways. The primary purpose for this is to keep people from tripping over window frames or lower support structures for the glass, or falling through the windows themselves, during an emergency. An alternative to this requirement has been proposed in this SNPRM. It omits the 36" limitation when the passageway is fitted with storm rails that are structurally independent of the glass.

Other comments objected to the requirement in paragraph (d) for steel or equivalent window and airport frames in A-Class bulkheads. Steel or equivalent frames are required in all interior and exterior A-Class divisions consistent with the definition of A-Class division which requires barriers to be of steel or equivalent material. Aluminum structures must be thermally insulated to meet this requirement. Aluminum frames are allowed provided that they adequately retain the glass. Therefore, steel glazing beads or steel angles are required because aluminum performs poorly in a fire environment.

One comment believed the fire shutters referred to in § 177.434(e) are too expensive. Fire shutters may be expensive. Therefore, this SNPRM allows for the option of using A-Class glass instead. This may be a more cost effective approach.

One comment wanted to know if passageways included exterior walkways. Exterior walkways are not normally considered passageways provided they meet the definition of "open deck".

Section 177.436 Doors on Vessels Carrying More Than 150 Passengers

The comments received on this section, now found in subchapter K § 116.435, were also minor in nature. Two comments believed the NPRM

would prohibit the use of aluminum doors. This is not so. The requirement is for steel or equivalent material. Aluminum is suitable for use when it is adequately insulated.

One comment believed the maximum gap between double swing doors, required by subparagraph (b)(4)(i) to be ⅛ inch, should be increased to ¼ inch. The Coast Guard retains the ⅛ inch requirement so as to minimize the degradation of the fire control boundary in which the doors are installed. Referring to subparagraph (c)(7), one comment recommended that horizontal stairway doors be prohibited. The Coast Guard is in agreement with this recommendation. Horizontal doors complicate egress as they are difficult to locate during a fire or in a smoke filled room, are unfamiliar to most passengers, and can be easily blocked. The NPRM has been revised so that horizontal doors are permitted only in spaces that are used strictly by crew members, subject to the original requirements stated in the NPRM.

Another comment believed the minimum door thickness required by subparagraph (c)(9) should be reduced. The Coast Guard disagrees because adequate fire resistance is not achieved with a reduced thickness.

One comment recommended prohibiting the ventilation grilles or louvers in B-Class doors, which are allowed by subparagraph (d)(4). This recommendation has been adopted. During a fire, this will reduce smoke flow through B-Class bulkheads and limit its spread beyond the room of fire origin.

Section 177.438 Stairtowers, Stairways, Ladders and Elevators on Vessels Carrying More Than 150 Passengers

A number of comments objected to the loading and material requirements for stairtowers, stairways, ladders, elevators, and landings. The primary concern was over the requirement in paragraph (b) for these structures to be made only of steel, thus prohibiting the use of aluminum. The Coast Guard has required steel because it exhibits outstanding fire endurance. Aluminum has a much lower fire resistance and loses half of its strength by the time it reaches 400 °F. Temperatures such as these are reached early in a fire and although aluminum decks and bulkheads can be insulated to provide adequate fire performance, it is impractical to similarly insulate stairway treads and support structure.

The loading criteria for stairtowers, stairways, ladders, elevators, and landings has been a longstanding Coast Guard requirement that is based on conservative design practice due to the paramount need to assure adequate means of vertical egress. No changes have been made to the NPRM.

One comment wanted wood handrails to be accepted in lieu of the noncombustible handrails required by paragraph (d) for stairtowers, stairways, ladders, and elevators. The Coast Guard disagrees and has retained the noncombustible requirement so as to minimize fire load and to assure the integrity of these egress facilities.

A number of comments wanted more latitude on the stairway riser height and tread depth specified in paragraph (h). The criteria proposed in the NPRM is in accordance with shoreside building codes, thus stairways will have a familiar "feel" to passengers. However, the NFPA has found that nosings exceeding ½ inch pose a tripping hazard. The requirement for nosing width has been reduced from 1 inch to ½ inch.

Three comments believed the area required by paragraph (i)(2) for intermediate landings in stairways was too restrictive. The Coast Guard disagrees because smaller intermediate landings will act as choke points that will adversely impact the flow of people during egress.

A number of comments believed the 40° limit in paragraph (j) on stairway inclination would cause stairways to take up too much space. Others were in strong approval of the proposed requirement but believed the limit should be relaxed to 50° for crew spaces. The Coast Guard has retained the 40° limit for stairways used by passengers because it is comparable to what is required in similar shoreside occupancies and will feel familiar to passengers, thus aiding egress. It is also the current limit for Type 1 and Type 2 stairways on vessels that carry over 150 passengers. In this SNPRM, stairways accessing spaces visited solely by crew members are now allowed to have an inclination up to 50° and the minimum width of these stairways has been reduced to 28 inches.

In this SNPRM, §§ 177.438 (k) and (l) (now §§ 116.438 (j) and (k)) have been revised to provide additional guidance and to clarify the requirements for stairtowers and stairways.

Referring to paragraph (n), now § 116.438(m), numerous comments believed a tread width in a stairtower stairway should have a specified upper limit. A number of widths were suggested. The Coast Guard disagrees with this approach. In order to provide adequate egress capacity, the maximum width of stairtower stairways must be based on the number of people who will use the stairway. The approach used in the NPRM is analogous to the minimum requirements of NFPA 101 that is used in shoreside occupancies. Further, § 177.438(n)(4), now § 116.438(m)(4), allows the use of multiple smaller stairtowers in lieu of a single large stairtower, thus providing greater flexibility in design, yet also assuring adequate egress capacity.

Section 177.439 Balconies on Vessels Carrying More Than 150 Passengers

One comment believed the 80 percent rule for balconies posed in subparagraph (b)(1) of the NPRM would not work and should be dropped, but that the fire integrity of stairways and stairtowers serving such spaces should be maintained. The Coast Guard agrees that in some cases the 80 percent rule could be difficult to apply. The intent of this rule was to ensure that a fire in a space with a balcony would be obvious to individuals on both levels. Further, the 80 percent rule was also intended to prohibit the use of small openings between decks under the pretense that the upper deck is a balcony. Similar land based codes also have this same problem defining a balcony in such a way as to allow creative design while still maintaining an acceptable level of fire safety. Some codes require that floor openings be sized and arranged so that a fire or effects of a fire will be obvious to occupants on both levels before the onset of hazardous conditions. This type of requirement would be difficult to apply consistently. Because there will usually be many passengers and service personnel (waiters and waitresses) in these areas, and because of the fire detecting systems required by § 181.400, the Coast Guard believes no requirement is needed and has deleted this paragraph.

However, the Coast Guard is concerned that this provision could be misused to allow the joining of two effectively separate spaces by small openings, such as those for pipe, cable, ducting, machinery trunks, or even unenclosed stairways, which would let fire, heat, and smoke into another space. The definition of "balcony" in § 114.400 has been revised to clearly show that any vertical opening which provides free communication between two spaces creates a balcony which invokes this section.

The Coast Guard is also concerned about the lack of standardization of equivalencies which have been granted in the past for spaces, particularly spaces with balconies, which have exceeded the maximum MVZ length. The Coast Guard has included the so

called "Balcony Rule", from § 72.05–5(m)(1) of subchapter H, in this section of the SNPRM. Owners desiring to have large spaces with balconies which cause the "equivalent" MVZ length, as calculated using the Balcony Rule, to exceed the maximum allowable length of 131 feet (40 meters) will be given the option of complying with requirements for atriums, as long as the actual length of the compartment does not exceed the maximum allowable MVZ length.

Although the NPRM contained regulations regarding balconies and partial decks, it failed to address atriums. New designs are more frequently incorporating atriums and this SNPRM contains fire protection provisions for them. The requirements proposed in § 116.440 of this SNPRM are similar to those found in IMO/MSC Circular 526 dated 29 June 1990. Section 177.440 of the NPRM is applicable only to subchapter K vessels and has been located in subchapter K as § 116.400.

Section 177.500 Means of Escape

The majority of comments received on this section concerned the use of watertight doors and ladders as a means of escape and proposed new door width requirements. One comment believed it would help to design for emergency situations if "means of escape" were defined. The Coast Guard agrees and this has been added to proposed § 175.400 (K § 114.400).

Two comments believed watertight doors should be allowed by paragraph (a) as a means of escape. The NPRM requirement allows one of the two means of escape to be a watertight door but not both. Watertight doors are typically more difficult to operate than non-watertight doors and are unfamiliar to most passengers. Further, the hydrostatic forces that develop due to flooding can render watertight doors unopenable. To preclude the trapping of passengers and crew, and to preclude delays in egress, the requirement is retained. A number of comments fully understood and supported the requirement.

One comment believed sizing egress facilities on the full fixed seating capacity of accommodation spaces, as proposed in § 177.500(e)(iii) of the NPRM, would result in the need for a major refit and loss of capacity. The Coast Guard disagrees. The proposed rules are applicable only to new vessel construction and modifications to existing vessels. No refitting of an existing vessel is necessary unless it undergoes a modification. Further, the proposed capacity criteria are based on longstanding Coast Guard regulation and policy to which existing small passenger vessels carrying over 150 passengers were built. This section should have no impact on passenger capacity.

Three comments believed the door width criteria proposed in paragraph (h) would reduce passenger space. However, two other comments, including one from the NTSB, supported the criteria, stating that it will improve passenger safety. The Coast Guard agrees with the latter and realizes that in some cases passenger space may be slightly reduced. However, the need to assure a safe means of escape is an overriding concern. The criteria used for door and egress widths is similar to that for comparable shoreside occupancies. Although ships and buildings have numerous and important differences, the activities that passengers and occupants engage in are often analogous, including social functions, dining, dancing, business meetings, and lectures. It is reasonable for passengers to expect and for owners to provide similar life safety design features for similar types of occupancies whether they are marine or land based. Therefore, the requirements that were posed in the NPRM are retained and further clarification concerning corridor widths has been added in § 177.500(f) (K § 116.500(g)) of this SNPRM.

Two comments believed a minimum size should be specified for doors and scuttles used for means of escape. The Coast Guard agrees and this has been incorporated into paragraphs §§ 177.500(f) and (m) (K §§ 116.500(g) and (n)) of this SNPRM.

The maximum length of a dead end corridor has been reduced to 20 feet in § 177.500(g) (K § 116.500(h)). This is consistent with the requirements for similar shoreside occupancies.

One comment wanted to know whether § 177.500(l) of the NPRM, (§ 177.500(j) of this SNPRM) concerning marking of exits, applied only to the primary means of escape. The marking requirement applies to all means of escape.

Referring to paragraph (m) of the NPRM (paragraph (k) of this SNPRM), five comments believed ladders leading to deck scuttles should be counted as one of the two required means of escape on vessels over 65 feet in length. The Coast Guard disagrees. Ladders leading to scuttles are permitted as a means of escape on vessels of not more than 65 feet only because of severe space constraints. Ladders are an undesirable method of escape because they are unusable to many passengers, including the elderly, the disabled, those unfamiliar with vessel construction, or those disoriented by fire, smoke, or other emergency. To avoid confusion, the term "vertical ladder" has been replaced with "ladder" as this regulation is intended to apply to all steep ladders and not just ones that are solely in the vertical orientation.

One comment said that the 3 inch toe space for ladders required by § 177.500(n)(3) of the NPRM ((l)(3) of the SNPRM) was insufficient and should be increased to 7 inches in accordance with ANSI 14.3. The Coast Guard agrees and has revised this in the SNPRM.

One comment believed the provisions of paragraph (q) of the NPRM, ((o) of the SNPRM) allowing windows and windshields to be used as one of the two means of escape on vessels not more than 65 feet in length, should apply to all small passenger vessels. The Coast Guard disagrees because windows and windshields are a cumbersome means of escape, but are allowed due to the severe space constraints on smaller vessels.

Another comment wanted dimensional requirements for such windows and windshields to be specified. The dimensions specified in this section are required for all means of escape, including windows. The OCMI will use this section as guidance in determining if the designated escape route, including a window or windshield and access to the window or windshield, is of proper dimensions.

Paragraph (r) of the NPRM ((p) of this SNPRM) requires only one exit for certain low risk spaces with a maximum dimension (length or breadth) of less than 12 feet. This is primarily because the likelihood of fire and number of occupants in such spaces is low and because another exit will not be separated far enough to materially improve egress efforts. One comment believed this requirement should be modified to allow "normally unoccupied" spaces with a maximum dimension of less than 25 feet to have only one means of escape. The Coast Guard disagrees. Some normally unoccupied spaces, such as engine rooms on larger vessels, are indeed "normally unoccupied" yet present sufficient fire risk to warrant two means of escape. Additional guidance is found in § 177.500(a) of the NPRM which requires two means of escape only for spaces that are accessible to passengers or are used by the crew on a regular basis. Therefore, spaces such as steering gear rooms which are rarely used by the crew would not require two means of escape.

Section 177.510 Embarkation Stations

This section has been moved to subchapter K § 116.510. Numerous comments believed small passenger vessels had insufficient room for embarkation stations. Others believed the requirement should be based on whether or not the vessel has overnight accommodations and not on whether it carries over 150 passengers. Two comments desired specific design guidance. The requirement to have specifically designated embarkation stations was proposed so that vessels carrying over 150 passengers or with overnight accommodations for more than 49 passengers would have specific areas where passengers would normally be expected to board survival craft. Architects, operators, and inspectors would know that the area should be arranged so passengers could easily embark to survival craft, access to the area would not be blocked, and passengers could be informed where they would normally have to board survival craft. This will add a higher level of organization to the somewhat chaotic evolution of abandoning ship. Although the requirement may in some cases cause a slight reduction in passenger area, it is intended to ensure safe egress routes. The 150 passenger and 49 overnight accommodation breakpoints are retained so as to assure adequate egress on both day cruisers and overnight vessels. Additional guidance expressing Coast Guard intent concerning the arrangement and design of embarkation stations has been added as requested.

Section 177.520 Muster Stations

A large number of comments were received stating that muster stations were not applicable to small passenger vessels nor feasible in a typical operation. In this SNPRM the requirements for the means of escape are now more specific and the requirements for embarkation stations have been clarified. The Coast Guard has reconsidered the applicability of muster stations aboard small passenger vessels and removed this section from the SNPRM.

Vessels carrying more than 600 passengers would be required by subchapter K to meet the applicable embarkation and muster requirements incorporated in the fire protection requirements of subchapter H. Multiple MVZ vessels which would permit complete evacuation of a fire effected MVZ are preferred, but not always practical. NVIC 14–91, "Guidance on Means of Egress and Refuge Areas for Certain Passenger Vessels Operating in Protected or Partially Protected Waters," would also be applicable to these vessels. This NVIC, developed with substantial public review and input, was published 2 October 1991 to announce an equivalent alternative to the emergency means of egress and refuge requirements built into subchapter H.

The Coast Guard is concerned about what would happen to the passengers aboard a 150 to 600 passenger vessel if there were no safe haven in the event of a fire or other casualty. The newer designs for "river boats" and modern sleek-looking harbor cruise vessels leave little or no room on outside portions of the main deck for escape from a fire in a primary accommodation space. The Coast Guard does not believe that passengers should have to jump overboard for lack of a safe refuge or a safe way to get to a designated embarkation station if it becomes necessary to abandon ship. The Coast Guard also realizes that on many vessels this may not be a problem and does not want to burden the owners of vessels with unnecessary requirements.

Section 116.520 of this SNPRM proposes that vessels which would be regulated by subchapter K must submit an emergency evacuation plan for approval during plan review. The emergency evacuation plan would identify safe areas of assembly for all passengers in the event of a fire in, or flooding of, any accommodation space, and the procedures for abandoning ship. For some vessels the emergency evacuation plan would be relatively short. For other vessels a substantial document may be required.

NVIC 14–91 is written to apply to those vessels which must meet the structural fire protection requirements in subchapter H and would not be directly applicable to subchapter K vessels, i.e., those vessels carrying not more than 600 passengers. Because the provisions of the NVIC are equivalent to the emergency egress requirements in subchapter H, which has a higher standard than subchapter K, the Coast Guard would accept the provisions of the NVIC as equivalent, under § 114.540 of subchpater K, to the applicable passenger capacity, means of escape, and emergency escape plan requirements proposed in §§ 115.113, 116.500, and 116.520 of subchapter K.

One specific difference between NVIC 14–91 and § 116.520 of subchapter K is that NVIC 14–91 specifies standards which define an area of refuge and its required level of fire protection while § 116.520 does not propose any such standards. The Coast Guard is considering including standards for areas of refuge, similar to those in NVIC 14–91, in the final rule for this project and solicits comments concerning the applicability of the standards in NVIC 14–91 to subchapter K vessels. For reference purposes, NVIC 14–91 is included as Appendix I at the end of this SNPRM.

Section 177.600 Ventilation of Enclosed and Partially Enclosed Spaces

Two comments were received stating that the use of "hull" in subparagraph (b)(2) does not reflect the intent of prohibiting downflooding points in the sideshell. The Coast Guard agrees and has changed the wording in this SNPRM.

Seven comments stated that the requirement in paragraph (c) for a means to close or shut off all ventilation passages was not justifiable or necessary on vessels carrying less than 150 passengers, especially when the vessels themselves may be built of wood or FRP. The Coast Guard agrees and has removed this requirement from proposed subchapter T in this SNPRM. Under paragraph (b)(3), the OCMI can require any closures which are deemed necessary to preserve watertight integrity. However, this requirement has been left in proposed subchapter K and now appears as § 116.610(c) of this SNPRM. The removal of this requirement from subchapter T does not mean that vent openings for engine rooms or other spaces protected by fixed gas fire extinguishing systems must not have the closure devices required by §§ 182.460(l) and 182.465(h) (K-§ 119.465(h)).

Two comments stated that the power ventilation remote shutoffs required by paragraph (d) were unnecessary, and one comment stated they were important enough to be located on the bridge. The Coast Guard thinks a power ventilation remote shutoff is necessary, and that having all ventilation shutoffs located at the same place would be safer. This paragraph has been revised to require all power ventilation systems be able to be shut down from the pilot house.

One comment stated that materials such as electrical wiring, piping, and combustibles should be kept out of ventilation ducts. The Coast Guard agrees, as such arrangements promote flame spread within ducting. New paragraph (g) has been added in this SNPRM to include this suggestion.

Section 177.610 Ventilation Ducts on Vessels Carrying More Than 150 Passengers

This section has been moved to subchapter K, § 116.610. A number of

comments believed the requirements of this section should apply only to vessels carrying a larger number of passengers. The Coast Guard disagrees. It is necessary to include requirements for HVAC ducting in order to assure that fire control boundaries are maintained. Vessels currently carrying over 150 passengers must meet criteria similar to that in subchapter H.

One comment believed the minimum duct thickness at bulkhead penetrations should be reduced. The Coast Guard disagrees. The proposed thickness requirement in the NPRM is to assure that duct penetrations have an endurance rating equal to that of the bulkhead.

One comment recommended that fire dampers in ducts penetrating MVZ bulkheads, and in ducts penetrating bulkheads separating cargo spaces, machinery spaces, and vehicle spaces from accommodation spaces be both manually and automatically operated. The Coast Guard concurs and this requirement has been added in paragraphs (e) and (f) of this SNPRM.

The requirement in paragraph (h) has been revised to prevent the passage of air between any spaces, not just accommodation spaces and passageways. In conjunction with the removal of § 177.436(d)(4), which would have allowed ventilation grilles or louvers in B-Class doors, this important fire protection measure will reduce smoke flow through B-Class bulkheads and limit the spread of a fire beyond the room(s) of origin. Section 116.610(i) would require ventilation return to be via ducting.

Subpart G—Crew Accommodations

The Coast Guard is proposing in this SNPRM to rename, rearrange, and renumber the requirements in subpart G on crew spaces. The proposal aligns the arrangement of the requirements in subpart G with the arrangement of the requirements for passenger accommodations in subpart H.

The text has been revised to indicate the general arrangement requirements of this section are also applicable to work spaces, such as the operating station aboard a vessel. This subpart has also been revised to emphasize that when designing the arrangement and outfitting of a space, the route, speed, and modes of operation of a vessel must be considered. Most traditional small passenger vessels have adequate work and accommodation spaces for their crew. However, special provisions may have to be made for certain vessels due to their operations. For instance, due to high speeds, emphasis needs to be placed on the outfitting of the operating space on DSC, and, as specified in the DSC Code, builders of most DSC will often provide seat belts for the control seats and ensure instruments are readily visible to the seated operator.

Section 177.700 When Required

This section has been renamed "General requirements" and includes requirements from §§ 177.710 and 177.720 of the NPRM. Two comments were received questioning the requirement for the deck above a crew accommodation space to be above the deepest load waterline. This requirement presently exists for passenger accommodations (under subchapter H § 72.25.10) and is not as severe as that for crew members of passenger vessels (under subchapter H § 72.20–10(b)) or cargo and miscellaneous vessels (under subchapter I § 92.20–10(b)). Since most quarters aboard small passenger vessels are against the skin of the vessel and susceptible to damage, this requirement allows a breathing space or air pocket in case of flooding. For consistency, proposed § 177.700(b) has been reworded to read the same as proposed § 177.800(e).

Section 177.710 Location

This section has been renamed "Overnight accommodations" and repeats the requirements of § 177.700 of the NPRM. Three comments were received which indicated that this section was confusing and did not clearly state the requirement. The intent is that vessels which operate more than 12 hours in a 24 hour period must either provide overnight accommodations for the full crew complement, or put the crew ashore and be provided with a new crew. This latter method of operation is usually done under an endorsement on the COI which allows reduced manning for a vessel operating with a reduced crew for less than 12 hours in a 24 hour period. This section has been reworded to more clearly express this intent.

Subpart H—Passenger Accommodations

Section 177.800 General Requirements

Two comments were received concerning the requirement in paragraph (f) (now (e)) for the deck above a passenger accommodation space to be above the deepest load waterline. As discussed under § 177.700 of this preamble, this requirement presently exists for passenger accommodations under § 72.25–10 of subchapter H. This requirement allows a breathing space or air pocket in case of flooding. No change has been made to the NPRM.

A new paragraph (d) of this SNPRM is being proposed to require passenger accommodations to be arranged and equipped to provide for the safety of the passengers, considering the route, modes of operation, and speed of the vessel. The passenger accommodations on most vessels are adequately arranged and outfitted. This new paragraph is added to emphasize that special care must be taken in arranging and outfitting passenger accommodations on certain vessels, such as DSC, which may be subjected to high speeds or sudden changes in mode of operation.

Section 177.810 Overnight Accommodations

Several comments thought that the aisle widths specified in paragraph (c) were too wide and took up too much room. These dimensions were taken from existing requirements, and have worked well in the past. No changes were made in the SNPRM.

Section 177.820 Seating

Many comments were received about subparagraph (d)(4), which requires that, when using the fixed seating criteria, all seats used to determine the number of passengers must be secured by permanent or temporary means. Most of the comments thought that this requirement prohibited moveable or portable chairs and tables. This interpretation is incorrect. This requirement means a space which contains portable or moveable chairs and tables for passenger seating, such as a dining room, must have the passenger capacity of that space determined by the length of rail or deck area criteria. No change was made to the NPRM.

Some of these comments wanted to know if the aisle widths for moveable furniture should be determined with the chairs pushed in or out. One comment suggested that the aisle widths should be determined, with the chairs pushed in, to be at least 36 inches wide, to account for people who are seated or seats which might be in the way. The Coast Guard's position is that aisle widths should be 30 inches with the chairs pushed out as far as they would normally be when being used.

Section 177.840 Washrooms and Toilets

Numerous responses were received stating: (1) The number of toilets was not a safety issue and should not be regulated; (2) unisex toilets should be allowed; and (3) passenger demands for comfort would self-regulate this area. The Coast Guard agrees. This area is not regulated on other means of

transportation. This section has been deleted.

Section 177.900 Deck Rails

Numerous comments asked about the design criteria and specifications for deck rails. The Coast Guard agrees that the specifications in the NPRM may be ambiguous in some areas and too specific in other areas, and has determined that a performance standard would be better. The Building Officials and Code Administrators International, Inc. (BOCA) National Building Code and the Standard Building Code contain similar performance criteria for handrails. The Coast Guard is proposing that all deck rails be designed and constructed to withstand a point load of 200 pounds (91 kilograms) applied at any point in any direction, and a uniform load of 50 pounds/foot (74 kilograms/meter) applied to the top rail in any direction. The point and uniform loads would not need to be applied simultaneously.

Paragraph (c)(4) of § 177.900 in the NPRM proposes that a temporary rail of at least 30 inches in height be installed in way of a fixed seat used for fishing which is equipped with a restraining device (seat belt) if it can be shown that a 36 inch high rail would interfere with a person fishing from the seat. The proposed regulation was based on current policy used by Coast Guard field units and a recent appeal decision made by Commandant. The Coast Guard intended to ensure more consistent application of existing § 177.35–1(d) by deleting the term "sport fishing vessels" and specifying when 30 inch rails would be allowed.

Five specific comments on proposed subparagraph (c)(4) ((d)(4) in this SNPRM) were received. Two comments requested that the existing § 177.35–1(d) be retained. One comment disagreed with classifying "sport fishing" vessels as only those vessels with fishing seats. Another comment wanted clarification as to whether the proposal in the NPRM would require 36 inch rails on all fishing vessels unless equipped with a fixed fishing seat. Another comment stated a 30 inch rail height should be allowed on sport fishing vessels in way of a cockpit or well deck area. One writer knew of no accidents that would have been prevented by 36 inch rails vice 30 inch rails. One writer noted that "temporary rails" and "fixed seats used for fishing" must be defined while another questioned the need for "temporary" rails.

These comments indicate the need for clarification of the existing requirement. A survey of Coast Guard field units indicated that about 50 percent of the units consider a "sports fishing vessel" to be any vessel used to carry passengers on recreational fishing trips whereas the remaining 50 percent of the units consider a sport fishing vessel to be a vessel of cockpit design usually equipped with fighting chairs for big game fishing. Available information indicates the original intent of existing § 177.35–1(d) was to allow the reduced rail heights on low freeboard vessels, such as those with cockpits. Regardless of how "sport fishing vessel" is defined, the controlling factor in existing § 177.35–1(d) is that the 30 inch rail height may be permitted only if an owner can show that 36 inch rail heights would interfere with the operation of the vessel.

Analysis of Coast Guard casualty data for the period 1981–1986 revealed two reportable man overboard casualties which may have been prevented by higher rails on small passenger vessels engaged in fishing. There were also three man overboard casualties on uninspected vessels which may have had rails or bulwarks of only 30 inches in height. Reportable casualties include only those where there was a fatality or a person was incapacitated for a period in excess of 72 hours. It is probable that several people went overboard from small passenger vessels engaged in fishing during the six year period, but fortunately only two incidents necessitated filing marine casualty reports due to injuries.

Because man overboard incidents would increase with low (30 inch) rail heights, the only time when low rail heights are justified on a small passenger vessel would be when the boat is used for big game angling. Big game angling for fish like marlin and sailfish typically requires the use of a fighting chair or other techniques which might necessitate lower rails. Although it may be somewhat inconvenient for some persons to fish next to 36 inch rails, the average height of passengers dictates a minimum 36 inch rail height. If there are unusual conditions, the provisions of proposed §§ 175.540 or 175.550 could be used.

In consideration of the comments received, proposed § 177.900(c)(4) ((d)(4) in this SNPRM) has been revised to clarify that the minimum 30 inch rail height would only be allowed in way of a person engaged in big game fishing when a 36 inch rail would interfere with the techniques and equipment used, such as a pedestal mounted fighting chair. This might mean that a 30 inch stern rail would be allowed, but side rails might be required to be 36 inches high. The cognizant OCMI would make this type of determination.

The specific provision for a fishing seat to be equipped with a seat belt has been deleted since such seats are not normally equipped with seat belts, although the safety of the person fishing near the reduced rails must be specifically considered when an OCMI allows the lower rail.

Special rail heights for vessels engaged in big game angling or the discharge of persons or cargo in a seaway will not be applicable to vessels proposed to be regulated by subchapter K. Therefore, these provisions have not been included in proposed subchapter K.

Subpart J—Window Construction and Visibility

The proposed rule requires the use of shatterproof glass suitable for a vessel's route, and requires adequate visibility from the operating station. One comment suggested that custom builders who do not use standard fittings and who have glass cut at local shops will encounter additional costs because of the use of safer materials. The Coast Guard agrees that some builders not presently building to the proposed standards may have higher costs. However, most builders already use standard sizes. Because the use of shatterproof glass is safer, the proposed rule has not been changed.

One comment suggested adding a section to prevent vertical sliding windows from falling down. The comment was familiar with one casualty in which a child was hurt by a sliding window. The Coast Guard has insufficient casualty data to warrant such a specific provision. The OCMI has the authority to prevent generally unsafe conditions, such as windows which may pose a hazard. The rule proposed in the NPRM has not been changed.

Section 177.1020 Strength

The proposed rule requires that windows and their attachments be capable of withstanding expected environmental forces, and reflects a "suitable for service" approach in lieu of a specific structural standard. This section applies to windows or viewing ports which are below and above the waterline. One comment stated that the proposed rule clarifies existing policy and should be retained. Three comments suggested using a more specific definition of window strength or including a criterion or standard, such as the International Standards Organization (ISO) or the British Standards Institute. Two of these comments suggested guidance be placed in a NVIC or the MSM. Two other comments suggested a formula or

industry standard in lieu of the undefined maximum load called for in the proposed rule. The Coast Guard disagrees. A comparison to window designs on vessels with satisfactory service will identify those vessels with windows which need to be structurally evaluated. The general nature of the proposed rule is sufficient until such time as suitable window standards are developed. The Coast Guard will consider publishing such guidelines in the MSM or in a NVIC. The rule proposed in the NPRM has not been changed.

One comment suggested window strength requirements were not needed for vessels on protected waters such as routes encompassing Great Lakes harbors and rivers. The Coast Guard disagrees because the proposed rule only requires that the window strength be "suitable for the service" and does not impose a specific structural standard. The rule proposed in the NPRM has not been changed.

Part 178—Intact Stability and Seaworthiness.

The rules proposed in this part return stability requirements for small passenger vessels of not more than 65' to subchapter T. In 1984 these requirements were placed in subchapter S to have stability and subdivision requirements for all types of vessels in one subchapter. In response to small passenger vessel operator and owner concerns, the Coast Guard determined that it would be easier for owner/operators of small passenger vessels of not more than 65' to have to deal with only one set of regulations. Stability and subdivision requirements for small passenger vessels of not more than 65' were moved back to subchapter T in the NPRM.

Two comments specifically supported moving the stability and subdivision requirements into subchapter T with one comment stating that the stability requirements for all small passenger vessels should be in subchapter T. Three comments objected to putting the stability and subdivision requirements into subchapter T believing that the present organization, with stability and subdivision for all types of vessels in subchapter S, would facilitate use by designers and simplify future changes. Another comment said that this would require designers to cross reference subchapters T and S. The Coast Guard has determined that the location of stability and subdivision requirements for small passenger vessels proposed in this SNPRM is the best arrangement considering all users. As proposed in the NPRM, part 178 of this SNPRM contains regulations on intact stability and seaworthiness. Part 179 regulates subdivision, damage stability, and watertight integrity. Subchapter K does not contain parts on stability and subdivision but instead requires compliance with subchapter S. Subchapter K does contain requirements for drainage and watertight integrity of weather decks in part 116, subpart K. Designers and naval architects are much better equipped to handle the use of two subchapters for stability requirements than a greater number of owners who may not be able to find the applicable requirements in subchapter S. The NPRM has not been changed based on these comments.

In this SNPRM, the simplified stability and subdivision requirements which most vessels carrying not more than 150 passengers or with overnight accommodations for not more than 49 passengers can use are proposed to be located in subchapter T because of the comparative ease of use and need which owners of small passenger vessels have for a self-contained subchapter. The stability and subdivision requirements for vessels to be regulated by subchapter K are retained in subchapter S because of their greater complexity.

One comment suggested including requirements for catamarans, trimarans, and submersibles. As discussed above under part 177, specific standards have not been developed for multihulls. The current policy for submersibles is not sufficiently tested to place it into the regulations. The rule proposed in the NPRM has not been changed.

Section 178.220 Stability booklet

The proposed rule requires review of stability booklets by the MSC. One comment suggested referencing subchapter S in lieu of referencing § 170.110. The Coast Guard agrees because a general reference is equivalent but will not become outdated as subchapter S is changed over time. The rule proposed in the NPRM has been changed to incorporate the comment.

Section 178.230 Stability Letter or Certificate of Inspection Stability Details

The proposed rule specifies general information that must be located on the document the operator refers to for stability information. One comment suggested adding "or freeboard" to paragraph (b) ((b)(2) in this SNPRM). The Coast Guard agrees. It is standard practice to refer to freeboard if the vessel does not have draft marks or a load line. The rule proposed in the NPRM has been changed to incorporate the comment.

One comment suggested the possible use of the word "doors" in lieu of the word "openings" in paragraph (c) ((b)(3) in this SNPRM). The Coast Guard disagrees. Although the normal openings in watertight bulkheads are doors, there might be other openings, such as galley service windows. The rule proposed in the NPRM has not been changed.

One comment suggested paragraph (d), ((b)(4) in this SNPRM), is too vague and should require identification of the actual subdivision bulkheads. The Coast Guard agrees. The specific identification of the actual bulkheads has been standard practice at the MSC since 1986, as a result of recommendations made by the NTSB after the MISSISSIPPI QUEEN casualty in 1985. The rule proposed in the NPRM has been changed to incorporate the comment.

One comment stated paragraph (e), ((b)(5) in this SNPRM), appears incorrect because openings considered closed for the stability analysis are presently put on the stability letter. The Coast Guard disagrees. The intent of the requirement is to include in the stability letter those openings in watertight bulkheads which the operator should ensure are closed to limit flooding, such as watertight doors. The SNPRM has been changed to clarify the requirement.

One comment suggested adding the word "type" in paragraph (f) ((b)(6) in this SNPRM). The Coast Guard agrees because this provision will make the description of fixed ballast more accurate. The NPRM has been changed to incorporate the comment.

One comment suggested adding a new paragraph (i) to read "maximum weight of primary lifesaving appliances and their exact location in the vessel." The Coast Guard disagrees. Although some owners move these and similarly heavy items without concern for stability, most owners do not. Also, stability letters and booklets routinely contain a provision that when any weights are shifted or modifications made to the vessel, the OCMI must be notified. The rule proposed in NPRM the has not been changed to incorporate the comment.

Subpart C—Intact Stability Standards

As previously discussed with proposed § 171.035, the Coast Guard is proposing to retain existing § 171.035 as new § 178.325, which would allow certain sailing vessels the option of passing a simplified stability proof test instead of meeting subchapter S stability criteria. Some restrictions concerning cockpit length and downflooding were added and were previously discussed with proposed § 171.035. In order to

retain this section, it was necessary to modify the wording of paragraphs 178.310(a) and (b) and to insert a new paragraph 178.330(e).

Section 178.310 Application Based on Length, Passenger Capacity, and Propulsion

The NPRM states which vessels must comply with subchapter S and which vessels may perform a simplified stability proof test. Two comments suggested the proposed rules should require full stability tests, including hydrostatics and stability calculations, for all small passenger vessels regardless of size. The Coast Guard disagrees because the simplified (proof) test and deadweight surveys in combination with safely assumed vessel vertical center of gravity (VCG) have been satisfactorily used for many years. No change was made to the rule proposed in the NPRM.

One comment suggested that in lieu of requiring a full stability review under subchapter S, OCMIs should be allowed to accept the designers' calculations on vessels with more than one deck above the bulkhead deck, in an effort to minimize MSC workload. A simplified proof test could be used to verify the calculations. The Coast Guard disagrees. The MSC must check compliance with subchapter S. Small passenger vessel stability and subdivision is a category of work which is important enough that the Coast Guard has no intention of delegating review. No change was made to the rule proposed in the NPRM.

One comment suggested the three categories in paragraph (a) should be simultaneous conditions. The Coast Guard disagrees. Each of these three categories is intended to require a vessel to meet the stability criteria of subchapter S. The rule proposed in the NPRM has been changed in this SNPRM to clarify this. Paragraph (a)(1) is no longer applicable because of the split between subchapters T and K, and has been deleted.

One comment suggested revising paragraphs (a)(3) and (b)(5) to read passenger deck versus deck. The Coast Guard disagrees because of the concern with multiple levels of structure as well as multiple levels accessible to passengers. A vessel with two or more decks above the bulkhead deck can have a high enough metacentric height to pass criteria for initial stability but lack stability at higher angles of heel. The rule proposed in the NPRM has not been changed.

Section 178.320 Intact Stability Requirements for Mechanically Propelled and Non-Self-Propelled Vessels

The proposed rule identifies which type of procedures would be used on those vessels allowed to meet simplified stability criteria. Two comments suggested defining a pontoon vessel or making reference to Figure 178.340(f). The Coast Guard disagrees because the paragraph already refers to proposed § 178.340. The rule proposed in the NPRM has not been changed.

One comment suggested including examples of how stability can be ascertained without the proof test on vessels carrying not more than 49 passengers. The Coast Guard disagrees because any list of examples will remove the intended flexibility. The Coast Guard's intention is that OCMIs will continue to compare vessels to similar vessels with satisfactory service rather than require a specific test. Vessels of a new design first operating in the area would have to undergo at least the simplified stability proof test. The rule proposed in the NPRM has not been changed.

One comment suggested adding a limitation to the proposed rule that would force any vessel carrying deck cargo to perform a test, even if carrying not more than 49 passengers. The Coast Guard agrees because small passenger vessels carrying deck cargo cannot be compared to other types of vessels such as those that carry only deck cargo. Paragraph (c) has been revised in this SNPRM.

One comment suggested prohibiting the use of ballast water to meet any stability criteria because masters are not tested for competency in stability and because most small passenger vessel stability guidance is provided as simple instructions in a letter. The Coast Guard agrees in principle. Proposed § 178.510 of the NPRM incorporated the comment. However, some vessels, especially SWATH (small waterplane area twin hull) designs, must have water ballast systems to safely operate. Masters of these vessels receive special training in ballast system operation. Section 178.510 of this SNPRM proposes that water ballast systems must be approved by the Marine Safety Center.

Section 178.325 Intact Stability Requirements for a Sailing Vessel

This is a new section which contains requirements similar to those in existing § 171.035 of subchapter S. This newly proposed section is discussed earlier in this preamble under § 171.035.

Section 178.330 Simplified Stability Proof Test

The proposed rule contains all of the procedures for conducting the basic intact stability test for small passenger vessels. One comment suggested including the ¼ freeboard submergence proof test, which forecasts the results of completing the test with the required heeling moment. The Coast Guard disagrees. In general, the effect of applying an increasing heeling moment may not be linear. Such a test has value in reducing the labor necessary if the test is being performed to explore the vessel's stability and can be used as an indicator if special uncommon circumstances exist. No change has been made to the rule proposed in the NPRM.

One comment suggested including primary lifesaving equipment in subparagraph (c)(4) as a weight to be simulated if the equipment is not present. The Coast Guard agrees because such gear is easy to forget at the time of vessel delivery. This type of equipment may not be aboard until final outfitting is completed. The rule proposed in the NPRM has been changed to incorporate the comment.

One comment suggested revising the center of gravity to 1 meter to make the value consistent with international practice. The Coast Guard disagrees. A value of 2.5 feet is consistent with existing regulations and is a standard that has been used successfully for decades. Vessels using this test are not qualified to make international voyages with more than 12 passengers. The rule proposed in the NPRM has not been changed.

One comment suggested allowing the vertical center of gravity of the weights simulating passengers be 1.5 feet above the deck, so that 55 gallon drums can be used without stacking them on top of each other and creating an unsafe condition. The Coast Guard disagrees because the purpose of the test is to test the vessel in its worst operating condition. Alternatives to stacking 55 gallon drums are available. The rule proposed in the NPRM has not been changed.

One comment suggested revising paragraph (g) to start "When demonstrating compliance with paragraph (e) of this section, the freeboard must be measured with all test loads aboard and the effects of trim and heel minimized, as follows * * *". The Coast Guard disagrees because paragraph (c) specifies these conditions. The rule proposed in the NPRM has not been changed.

One comment suggested subparagraphs (e)(1) and (e)(2) should

refer to §§ 178.420(b) and 178.430(d) to indicate that a vessel having less than 10 inches of freeboard when fully loaded will have to comply with subchapter S. The Coast Guard does not agree the 10 inch freeboard requirement needs to be repeated in this section. As discussed below, revision of the worksheet form used for the simplified stability test will include a note to check that there is at least a 10 inch freeboard when the vessel is fully loaded and in a condition of normal trim. The rule proposed in the NPRM has not been changed.

One comment suggested continuing the use of the old Coast Guard worksheets and believed the proposed rule might lead to other less effective forms. Another comment stated the old Coast Guard work sheet should be modified if the proposed changes are made. The regulations do not presently require the use of any specific form or worksheet for stability calculations. However, under the present policy the existing Coast Guard form (CG–4006) is used by Coast Guard marine inspectors and will require revision when these rules become final. This revision will include a note to check that there is at least a 10 inch freeboard when the vessel is fully loaded (using test weights) and in a condition of normal trim. The rule proposed in the NPRM has not been changed.

One comment suggested allowing full freeboard immersion for sailing vessels, as with proposed § 170.170. The Coast Guard agrees because the design of the buoyant volume of typical sailing vessels is similar for vessels under and over 65 feet in length. New § 178.330(f)(5) has been added to this SNPRM to permit a flush deck sailing vessel to submerge up to the full freeboard in lieu of half the freeboard.

One comment suggested that the words "acceptable manner" in paragraph (h) could be interpreted to mean the total weight must be loaded and unloaded to prove compliance. The Coast Guard agrees that this is the intent of this requirement. The rule proposed in the NPRM has not been changed.

One comment suggested incorporating the passenger density proposed in § 171.050 to account for rail crowding. The Coast Guard disagrees because this test has proven sufficient for many years. The rule proposed in the NPRM has not been changed.

Section 178.340 Stability Standards for Pontoon Vessels on Protected Waters

The proposed rule requires a transverse and longitudinal moment proof test for pontoon vessels with two pontoons. One comment suggested that stability of pontoon vessels is already covered in the MSM. The rule proposed in the NPRM incorporated information which is in the MSM. Coast Guard intent is to include existing policy in the regulations whenever appropriate. The rule proposed in the NPRM has not been changed.

One comment requested an explanation of the proposed requirement in paragraph (a), which states that the deck accessible to passengers must not extend past the outboard edge of either pontoon. The Coast Guard finds this provision necessary to prevent possible capsizing as the passenger heeling moment exceeds the righting moment of the vessel. Although an infrequent problem, the possibility of capsizing exists and the only way to ensure safety on pontoon vessels is not to permit overhang. Rails or bulkheads preventing passenger movement will be satisfactory to meet this requirement. The rule proposed in the NPRM has not been changed.

One comment suggested precluding passenger access beyond the fore and aft ends of the pontoons, as well as outboard of the pontoons. The Coast Guard agrees because, although envisioned as less of a potential problem than passengers outboard of a pontoon, it is possible that seesawing could lead to pitchpoling. The rule proposed in the NPRM has been changed to incorporate the comment. Rails or bulkheads preventing passenger movement will be satisfactory to meet this requirement also.

One comment suggested rewording the survival criteria to show a loss of not more than one-half of the freeboard area existing before the weight shift, versus having more sectional area remaining than was submerged. The Coast Guard disagrees. The comment merely addresses semantics. The proposed wording and figure clearly demonstrates the concept. The rule proposed in the NPRM has not been changed.

Since the NPRM was published, ABYC has published specification H–35, "Powering and Load Capacity of Pontoon Boats". This specification provides guidelines, instructions, and pass/fail criteria for a stability test. It includes vessels with more than two pontoons and more than one deck. The Coast Guard solicits comments on the usefulness of this standard for use on inspected small passenger vessels.

Subpart D—Drainage of Weather Decks

The rules proposed in the NPRM require a specific size drainage area to allow boarding seas to flow overboard. One comment suggested that the proposed rules clarify existing policy and regulations and therefore should remain as proposed. The Coast Guard agrees. Many of the requirements proposed in the NPRM repeat existing regulations. Corrections to the NPRM have been made as discussed below. Because of the changes to the cockpit drainage requirements discussed under § 178.420 and the changes to the drainage calculation formula discussed under § 178.450, the Coast Guard is soliciting comments concerning whether freeing ports, which are required on well deck vessels, can be used on cockpit vessels, or if cockpit vessels should be required to have scuppers.

In general, there is no need to have a part in subchapter K which corresponds to part 178 in subchapter T. However, there is a need for requirements concerning drainage and watertight integrity. Therefore, proposed subchapter K contains subpart K, part 116, "Drainage and Watertight Integrity", which contains the same requirements as §§ 178.410 to 178.450 and § 179.360 of proposed subchapter T. Proposed § 116.100(b) will allow compliance with subpart K in lieu of meeting requirements in §§ 171.124 through 171.155 of subchapter S.

Section 178.420 Drainage of Cockpit Vessels

The NPRM contains specific requirements for the amount and method of drainage of cockpit vessels. One comment suggested removing the term "freeing port" from paragraph (d). The Coast Guard agrees. Freeing ports are not associated with cockpit vessels in the existing regulations nor should they be in the proposed rule. Cockpits are usually much smaller than wells and retain a lesser volume of water, reducing the free surface effect. When using the simplified stability proof test, requirements are also different for cockpit vessels because of the way freeboard is measured and freeboard immersion is calculated. Because of this, cockpit vessels are required to have less drainage area than well deck vessels under the existing regulations.

Along with this is the concept that cockpits are drained by scuppers, while well decks are drained by freeing ports. The arrangement of each vessel is different, but in general, the cockpit sole of a cockpit vessel is closer to the level of the waterline than the deck of a well deck vessel, with a greater possible need for non-return closures. The term "self-bailing" is used in existing § 171.145(b), when referring to a cockpit. Although not used or defined in the NPRM, self-bailing generally implies a passive

means by which a vessel frees itself of water via scuppers which are sometimes fitted with non-return valves. The non-return valves do not allow water back into the vessel. To maintain the concept of a cockpit with scuppers for drainage, paragraph (d) has been revised in this SNPRM to specifically require self-bailing cockpits. "Self-bailing cockpit" is now defined in proposed § 175.400 of this SNPRM. Cockpits which have decks lower than 10 inches above the deepest load waterline must have the scuppers fitted with non-return valves.

Section 178.430 Drainage of Well Deck Vessels

The NPRM contains specific requirements for the amount and method of drainage of well deck vessels. Compared to the scuppers required to drain cockpits, freeing ports found on well deck vessels are typically required to be much larger in area, to quickly "free" the deck of large amounts of water shipped aboard during heavy weather. This prevents the weight and movement of the water within a well, which is larger than a cockpit and could contain more water, from adversely affecting stability. Because of the differences in design and arrangement of well deck vessels and cockpit vessels, and because of the difference in stability requirements (as discussed under § 178.420), well deck drainage does not need to be restricted to freeing ports. Scuppers would perform adequately. Because of the large drainage area requirements for some vessels operating on partially protected or exposed waters, practicality will limit the use of scuppers. However, the owner or designer of a vessel operating on protected waters (where the drainage area requirements would be the same for cockpit and well deck vessels) might prefer to use scuppers instead of freeing ports. This SNPRM allows the use of scuppers or freeing ports for drainage of well deck vessels.

One comment suggested that paragraph (b) should not give owners the option of two drainage requirements. The Coast Guard disagrees. This requirement gives the option of having additional survivability features as a tradeoff for a smaller drainage area. It exists in the current regulations. The rule proposed in the NPRM has not been changed.

One comment suggested that confusion exists because the stability criteria required by paragraph (b)(2) as a tradeoff for a smaller drainage area are not applicable to vessels which carry not more than 49 passengers. The Coast Guard does not agree that there should be any confusion. The higher criteria required by this paragraph are performance standards which are required for a special drainage allowance, regardless of the number of passengers carried. In this instance, they are not being used as required stability criteria for certain vessels. The rule proposed in the NPRM has not been changed.

Section 178.450 Calculation of Drainage Area

The NPRM contains the formula to be used to determine the drainage area of cockpit and well deck vessels. The formula accounts for route, freeboard, bulwark height, and superstructures which exclude water volume. As discussed in the NPRM, the Coast Guard is concerned about the rapid clearing of water taken onto the weatherdeck. One comment suggested making the calculation simpler by putting required drainage area into chart form. The Coast Guard disagrees. Any chart or table which could be devised would require interpolation, whereas the formula provides direct calculation of the area. Any given vessel will need only one series of calculations. The rule proposed in the NPRM has not been changed.

One comment did not understand the formula and suggested the volume factor refers only to cockpit vessels. The Coast Guard disagrees. The volume factor is a constant for some vessels but a formula for other vessels and is applicable to all well deck and cockpit vessels.

One comment pointed out that the factor "f" was determined in § 178.330, not the factor "b". This error has been corrected.

One comment suggested that "meeting the requirements of § 179.360" be inserted in the definition of the factor "H" after "weathertight superstructure". This would more clearly require that all areas excluded from the total deck area have watertight coamings in accordance with § 179.360, which was the intent of this requirement. The rule proposed in the NPRM has been changed.

One comment suggested requiring less drainage, especially in restricted operating areas, because few vessels sink due to a lack of drainage. The Coast Guard disagrees. Improper deck drainage has been a contributing cause to some vessel sinkings.

One comment suggested that freeing port area (in square inches) should be 15, or some other appropriate constant, times the volume of water which can be trapped (in cubic feet). The Coast Guard disagrees. Drainage should be a function of factors such as the type of vessel, route, freeboard, and bulwark or cockpit height.

Two comments suggested making the drainage area the same for exposed waters as for partially protected waters due to similar operating conditions which can be experienced while in these sets of waters. The Coast Guard agrees that vessels are sometimes operated on the more exposed portions of routes for which they were designed, but not originally planned to be operated. As an example, a vessel can be subjected to severe seas for a longer period of time when it is not close to a harbor of safe refuge (but within 20 miles of shore, therefore qualifying for a partially protected route) than it would if operated one to three miles offshore. A distinction has always existed between exposed and partially protected waters. The existing regulations have drainage requirements which are much greater for exposed routes than for partially protected routes. The formula proposed in the NPRM attempts to smooth out the amount of required drainage area, reducing the step effect and providing more balanced drainage requirements. The rule proposed in the NPRM has been changed as discussed below. These changes also make the formula easier to use.

The drainage area formula has been adjusted slightly to equalize the drainage area requirements for well deck and cockpit vessels with wells/cockpits which are near the same size. This change has made § 178.430(b)(3) unnecessary, and it has been removed in this SNPRM.

The drainage calculation formula has also been changed to reflect higher drainage requirements based on a vessel's propensity to ship water. Vessels with lower freeboards or which are operated on more severe routes have a need for more drainage than vessels with higher freeboards operated on protected routes, because they will be exposed to situations where they can easily ship large amounts of water. The highest impact will be on small, low freeboard vessels (typically cockpit vessels) operated on exposed or partially protected routes. Vessels on protected routes will not be affected. Builders and designers will notice that, because of the deck exclusion provision in the proposed formula, the amount of drainage area for a well deck vessel on an exposed or partially protected route will generally be less than that required by the existing formula, depending on its freeboard and bulwark height.

Under §§ 178.420 and 178.430 of this SNPRM, the requirements to have scuppers to drain a cockpit vessel and to have freeing ports to drain a well deck vessel are clearly differentiated.

However, the Coast Guard is open to comments on the merit of not specifically requiring a drainage method and allowing the designer, builder, owner, or operator to choose the method (scuppers or freeing ports), as long as the required drainage area is provided. The Coast Guard solicits comments on this concept.

Section 178.510 Fixed Ballast

In general, there is no need to have a part in subchapter K which corresponds to part 178 in subchapter T. However, there is a need for requirements concerning ballast and ballast systems. Therefore, proposed subchapter K contains subpart L, part 116, "Ballast Systems", which contains the same requirements as § 178.510 of proposed subchapter T.

The proposed rule prohibits the use of liquid ballast if necessary to meet the stability requirements applicable to that particular vessel. Any optional ballast, including water ballast systems, may be added. However, the designer must show that throughout the range of all possible operating conditions, from full to empty ballast tank(s), the vessel will still meet all applicable stability criteria. Two comments suggested adding liquid ballast as an option due to its ability to compensate for a wide variety of service conditions. The comment added that its use should not be precluded because of operator error, which can occur under any circumstances with any system. The Coast Guard is concerned with actions which may be taken by the crew or master of a small passenger vessel because of a lack of knowledge concerning ballast procedures and/or basic stability fundamentals. Small passenger vessel masters are not required to, and most often do not, understand this subject. Experience has shown that some operators show wanton disregard for stability instructions on the use of liquid ballast.

In the past, the installation of fixed ballast has not proven to be difficult or overly restrictive for vessel loading and operation. Increasingly, novel vessel designs, such as catamarans, SWATHs, and DSC, have needed active water ballast systems to adjust draft, list or trim, while other vessels have used them as a means of tonnage exemption. The Marine Safety Center and Commandant have approved some active water ballast systems on a case by case basis. Permanent water ballast has also been accepted to meet specific stability requirements. Fixed (or permanent) water ballast does not qualify for tonnage exemption.

Current policy for active water ballast requires the designer to show that throughout the range of all possible operating conditions the vessel will still meet all applicable stability criteria. Ballast loading restrictions, which incorporate simple restrictions, must be included in the stability letter which is issued. Professional competence of masters and crew members, as well as ballast system design and operation, are of particular concern. The owner or operator should be prepared to satisfy the OCMI that the crew is trained in the critical nature and proper operation of the system. Training may be required by the OCMI as well as an endorsement on the COI requiring an endorsement on the master's license authorizing service on a particular vessel or class of vessels. This section has been revised to incorporate case-by-case approval of water ballast systems.

One comment suggested the ballast limits recommended in NVIC 5–82, "Fixed Ballast", should be included in the regulations. The Coast Guard disagrees because the details in NVIC 5–82 are merely guidance and are inappropriate for the regulations. The rule proposed in the NPRM has not been changed.

Part 179—Subdivision, Damage Stability, and Watertight Integrity Requirements

The NPRM returns subdivision and watertight integrity standards to subchapter T after being located in subchapter S since 1984. One comment suggested adding a new subpart that would require vessels less than 20 feet, most of which are outboard motor propelled and do not comply with part 179, subpart B, to meet the level flotation requirements for outboard boats in 33 CFR part 183, subpart G or H. The comment further suggested that similar standards could be required for vessels over 20 feet in length. The Coast Guard agrees with the intent of this suggestion but is not changing the rule proposed in the NPRM. The proposed rule was written with a graduated scale of requirements depending on a vessel's size, number of passengers, and route. The suggested requirement would be out of concert with this scale, requiring very small vessels to meet a higher standard than larger vessels carrying more passengers. Casualty data does not show any significant problems for vessels 40 feet or less in length. Many OCMIs do not certificate vessels this small on oceans or coastwise routes without a close look at items such as flotation and lifesaving equipment. Under proposed § 175.540, an owner may propose the flotation test required for recreational craft by 33 CFR part 183 as an equivalent or alternative to other requirements.

Section 179.210 Collision Bulkhead

The proposed rule establishes which vessels must have a collision bulkhead. One comment suggested requiring a collision bulkhead on vessels which operate on exposed waters on the Great Lakes since they are exposed to the same hazards as vessels operating on coastwise routes. The Coast Guard disagrees. Although prudence indicates a collision bulkhead should be installed on all vessels, casualty data does not justify adding such a requirement to the current regulations. The rule proposed in the NPRM has not been changed.

One comment suggested rewording paragraph (b) to be more clear by specifying vessels operating on exposed waters as a category and vessels of more than 40 feet in length operating on partially protected waters as categories. The Coast Guard agrees. All oceans routes are exposed and the provision concerning vessels not more than 40 feet in length is limited to partially protected waters in the existing regulations. The rule proposed in the NPRM has been changed to incorporate the comment.

Section 179.212 Watertight Bulkheads for Subdivision

The proposed rule establishes which vessels must have watertight subdivision bulkheads. One comment supported subdivision requirements, especially on new vessels, and suggested that the installation of subdivision bulkheads should be accepted as a cheaper alternative to inflatable liferafts. The Coast Guard concurs and is proposing in this SNPRM that vessels of not more than 65 feet in length carrying not more than 49 passengers may voluntarily meet certain subdivision requirements in return for a reduction in the lifesaving equipment requirements. Part 180 of this preamble discusses this alternative.

One comment suggested a one compartment standard of damage stability for new vessels of all sizes on all routes. The Coast Guard agrees that prudence dictates that all vessels should meet a one compartment standard. The existing and proposed one compartment standard of subdivision for small vessels has no damage stability provision to ensure that a flooded vessel will stay upright. The Coast Guard is proposing in this SNPRM that vessels of not more than 65 feet in length with overnight accommodations for not more than 49 passengers may voluntarily meet certain subdivision requirements in return for a reduction in the lifesaving equipment

requirements. Part 180 of this preamble discusses this alternative.

Section 179.240 Foam Flotation Material

The rule proposed in the NPRM returns existing requirements on foam used for flotation to subchapter T from 46 CFR subchapter S, and limits the use of foam flotation to small vessels. One comment stated 33 CFR 183.114 deals with absorption of petroleum products and has nothing to do with ignition resistance. The Coast Guard agrees. However, for the purposes of the NPRM, 33 CFR 183.114 applies only to those spaces that are not free of ignition sources where foam flotation that had absorbed petroleum products would constitute a fire hazard. The rule proposed in the NPRM has not been changed.

Two comments suggested permitting the use of foam flotation on all lengths of vessels, especially on FRP vessels, to provide buoyancy. The comments also suggested that the use of foam flotation would help vessels meet subdivision standards. The Coast Guard does not agree that the proposed rule should be changed. Although foam flotation installed to the specifications in the proposed rule will augment subdivision, foam installation generally tends to aggravate maintenance problems by restricting access. A vessel designed without foam flotation is much easier for the owner to maintain and the Coast Guard to inspect. Removal of foam flotation, a major undertaking, may be required periodically for hull inspection. Also, casualty statistics do not indicate that vessels designed and operated within the constraints of the regulations have inadequate buoyancy.

One comment suggested foam flotation deteriorates with age and inspection plates should be provided to permit periodic sampling to determine the density and condition of the material. The Coast Guard agrees there is a need to periodically ascertain the condition of the foam flotation. Installations of foam flotation vary in detail and adequate inspection requirements are best determined on a case-by-case basis. The rule proposed in the NPRM has not been changed.

Section 179.310 Collision Bulkheads

The proposed rule establishes the vertical extent and longitudinal locations acceptable for collision bulkheads. Two comments suggested rewording paragraph (a)(1) to say "the weather deck, or the first deck above the bulkhead deck, whichever is lower", because the proposed wording could be interpreted to mean a vessel must have a deck above the bulkhead deck, prohibiting flush deck vessels. The Coast Guard agrees. It was not the intent to exclude flush deck vessels and the suggested wording is clearer. The rule proposed in the NPRM has been changed to incorporate the comment.

One comment suggested that requiring the collision bulkhead to extend to the bulkhead deck is unreasonable and unnecessary and that other provisions which establish equivalent safety should be permitted. The Coast Guard disagrees. This provision has been in the existing regulations for decades. The HERALD OF FREE ENTERPRISE disaster in 1987, where hundreds died, showed the hazard of trapping water in the superstructure through an open bow with no collision bulkhead. Proposed § 175.540 provides for equivalents, which might include demonstrating by calculation that a vessel can survive with water in the superstructure. The rule proposed in the NPRM was not changed.

One comment suggested rewording paragraph (a)(1) to state "exposed waters" rather than "other than all other waters." The Coast Guard agrees. The proposed rule reproduced the existing requirement in § 171.085. The existing requirement requires the collision bulkhead to extend to the weather deck on all small passenger vessels. However, the size of small passenger vessels has continued to increase and the Coast Guard now considers the requirements applicable to a vessel inspected under subchapter H appropriate. The rule proposed in the NPRM has been changed to require the collision bulkhead to extend to the weather deck, or the first deck above the bulkhead deck, whichever is lower, for service on oceans or coastwise routes.

One comment suggested not limiting the longitudinal location if subdivision standards are met and using the same limitations for small passenger vessels as for large passenger vessels (regulated by subchapter H). The Coast Guard agrees in part. The forward position was determined from casualty data, which show that a bulkhead forward of that position will often be breached in a collision. For 2 years Coast Guard policy has been to remove the aft (15 per cent) limitation if a vessel meets the subdivision standards. Since this change affects all vessel types, the Coast Guard is pursuing the change in a regulation project, entitled "General Revisions to Stability Regulations" (CGD 89–038), that will update subchapter S. The rule proposed in the NPRM has not been changed.

Three comments noted that the longitudinal position of the collision bulkhead is not stipulated, in paragraph (b), for vessels of not more than 65 feet in length. Another comment suggested changing the cutoff requirement for longitudinal location of the collision bulkhead, in paragraph (b), to more than 49 passengers versus more than 150, to provide consistency with proposed § 179.210, which establishes which vessels must have a collision bulkhead. As proposed in this SNPRM, the following vessels must have a collision bulkhead: a vessel of more than 65 feet in length; a vessel of not more than 65 feet in length which carries more than 49 passengers or which operates on exposed waters; and a vessel of more than 40 feet in length which operates on partially protected waters. The Coast Guard agrees with the comments, and is revising the SNPRM to require that all vessels which must have a collision bulkhead in compliance with § 179.210 must also comply with the location requirement in § 179.310(b). The rule proposed in this SNPRM is essentially the same as the existing requirements in subchapter S. However, industry input indicates that this proposed location requirement adversely affects the use of interior space. Casualty data shows that a collision bulkhead further forward, as many small passenger vessel owners prefer, may not be effective in a collision. The Coast Guard solicits more comments on vessels which should be required to have a collision bulkhead.

One comment suggested permitting the collision bulkhead to follow cant frames to achieve watertight integrity on old wooden vessels. The Coast Guard disagrees. In general, the concept of a one compartment standard of subdivision is based on plane bulkheads. The equivalency provision in proposed § 175.540 could accommodate non-plane collision bulkheads provided all sections of the bulkhead were acceptably located. The rule proposed in the NPRM has not been changed.

One comment suggested the 15 percent limit does not satisfy SOLAS requirements for some vessels and might preclude international service at some time. The Coast Guard agrees that it is possible to have a situation exist where the placement of the collision bulkhead meets SOLAS, but does not comply with subchapter T because the 15% limit has been exceeded. However, it is possible to build a vessel to meet both SOLAS and subchapter T if planned and built accordingly. It is the owner and operator's responsibility to have the vessel properly designed and built if international voyages are ever a

possibility. The rule proposed in the NPRM has not been changed.

Section 179.320 Watertight Bulkheads

The proposed rule requires plane bulkheads of adequate strength with a minimum of penetrations. One comment suggested rewording the proposed rule to clarify that it applies only to bulkheads required by proposed part 179. The Coast Guard agrees because the proposed section has no applicability clause like other sections in proposed subpart C. The rule proposed in the NPRM has been changed to incorporate the comment.

Section 179.330 Watertight Doors

The proposed rule addresses where watertight doors may be used and the alarms and closing devices for such doors. Watertight doors impose a safety hazard, especially on small vessels. Most small vessels are designed to a one compartment standard of subdivision. One door inadvertently left open when an adjacent space is damaged will often lead to foundering. One comment specifically concurred with allowing watertight doors which provide access to machinery spaces. The Coast Guard is proposing to allow watertight doors between machinery spaces and accommodations because the heat, noise, and smell will normally provide a sufficient incentive for crew and passengers to keep these doors closed. The rule proposed in the NPRM has not been changed.

Two comments suggested the proposed rule does not give clear guidance to OCMIs on when watertight doors would be allowed, and recommended omitting the OCMI's discretion. The Coast Guard disagrees with the former and agrees with the latter. The Coast Guard recently revised its policy concerning watertight doors. The new policy removed almost all OCMI discretion and allows doors only to machinery spaces, except on vessels serving the offshore oil industry. If a vessel in oil and mineral service changes to passenger service, all watertight doors which do not comply with this new policy must be removed or closed and permanently sealed. This policy has been incorporated in this proposed rule. The provision in existing § 170.255(b)(2) restricting Class I doors to vessels operating less than 20 nautical miles from shore was inadvertently omitted from the NPRM and has been reinserted in this SNPRM.

Three comments suggested removing reference to § 179.210 since existing § 171.085(h)(2) prohibits doors in collision bulkheads, and one comment pointed out that ABS rules require an intact collision bulkhead only on vessels over 40 feet in length. The Coast Guard disagrees because in unusual circumstances a vessel can have a door in the segment of the bulkhead above the bulkhead deck. The provision for approval by Commandant will ensure sufficient control. The rule proposed in the NPRM has not been changed.

One comment suggested the proposed rule does not adequately address types of watertight doors allowed in required subdivision bulkheads, noting the existing regulations concerning door location aboard small vessels are focused on Class I (hinged) doors. The Coast Guard agrees. Sliding watertight doors, which are seldom used on small passenger vessels, do not pose the potential hazards inherent with hinged doors. It is not necessary to complicate this section with definitions of door types. Paragraph (a) in the NPRM has been changed in this SNPRM to specifically address only hinged doors, which are by definition Class I doors. The second sentence of paragraph (d) clearly indicates that sliding doors, which are by definition either Class II or Class III doors, must comply with subchapter S.

Section 179.350 Openings in the Side of a Vessel Below the Bulkhead or Weather Deck

The proposed rule addresses port lights and pipe penetrations. One comment suggested that port lights which open should not be allowed on monohull sailing vessels. Paragraph (a) of the proposed rule allows port lights which open for all vessels on an equal basis. The Coast Guard understands the concern of this comment, especially since the proposed stability criteria for sailing vessels has been changed to allow the freeboard to be totally immersed during a simplified stability proof test. This would definitely submerge any port lights. The rule proposed in the NPRM has not been changed in this SNPRM, but the Coast Guard solicits more comments concerning the location, on sailing vessels, of port lights which can be opened.

Two comments suggested that requirements for dead covers be reevaluated, and stated that port lights should be equivalent in strength to the hull which would do away with the need for dead covers. The Coast Guard disagrees that port lights must be equivalent in strength to the hull. In general, glass, which is used for most port lights, cannot sustain loads in a manner equivalent to the hull material, especially if the area of the port light is larger than conventional portholes. Dead covers provide necessary protection against damage to port lights. If the port light and its method of attachment to the hull can be shown to be equivalent in strength to the hull under proposed § 175.540, dead covers are not necessary. The rule proposed in the NPRM has not been changed.

One comment suggested requiring all through hull fittings and skin valves to be metallic. One comment suggested that brass valves should not be allowed. Brass is a copper alloy consisting of 5 to 40% zinc. In a marine environment brass can dezincify which reduces the strength of the material. One comment suggested prohibiting gate valves as sea valves because: gate valves are often made of brass instead of bronze, and brass can dezincify; gate valves require many turns to shut off, instead of a quick motion like a sea cock; gate valves provide no external indication of whether they are open or shut; and, if gate valves become clogged, they may not fully shut and give no indication of this to the operator. None of these proposed requirements are part of the existing § 171.119. The rule proposed in the NPRM has not been changed, but the Coast Guard solicits more comments on the type of valves which should be used on through hull penetrations and what materials should or should not be allowed.

Section 179.360 Watertight Integrity

The proposed rule establishes the degree of weathertightness above the bulkhead deck, including coaming heights. The Coast Guard thinks that many small vessels will capsize if much water is trapped within the superstructure. Five comments suggested coamings pose a tripping hazard. Two of them stated that water passing through an entrance would flow overboard through ports or pose a negligible risk of significant flooding to below deck spaces. One suggested completely eliminating coamings. One stated that more than 75 percent of slips and falls can be at least partly attributed to required coamings. One suggested the Coast Guard should try to prevent falls, which are the majority of insurance claims. Two other comments suggested not reducing the proposed coaming heights because water on deck which can flood interior spaces is a greater hazard than tripping. One comment made the specific proposal of 6-inch coamings for exposed routes, 3-inch coamings for partially protected routes, and no coamings for protected routes. The comment noted satisfactory service on 30-year-old vessels, with no coamings, on protected routes.

The Coast Guard has no data to dispute the observation that coamings contribute to falls. The Coast Guard disagrees that water passing through an entrance is not a major hazard because few vessels are fitted with drains to remove water from enclosed superstructure or deck houses. The NPRM has been revised to reduce tripping hazards where possible while still providing safety. Paragraph (d) has been modified. Coamings will not be required on or above the main deck of a flush deck vessel with a route on protected waters, or above the main deck of a flush deck vessel with a route on exposed or partially protected waters. The Coast Guard solicits additional comments on this matter, and is interested in definite proposals supported by historical data.

One comment suggested that the proposed coaming heights are not sufficient to meet requirements for a load line. The Coast Guard realizes that load line requirements are 23.5 or 15 inches. Any vessel applying for a load line must meet all load line requirements, even if more severe than the requirements for vessels not receiving a load line. No change was made to the rule proposed in the NPRM.

Subpart D—Special Requirements for Vessels on International Voyages

The rule proposed in the NPRM identifies major differences in bulkhead spacing and required double bottoms which must be specially designed into a small passenger vessel to ensure compliance with SOLAS. Part 176, subpart I reflects the intent that vessels on international voyages must meet all SOLAS requirements, including fire protection, structure, stability, and subdivision. This subpart is considered repetitious and has been deleted from this SNPRM.

Part 180—Lifesaving Equipment and Arrangement

Section 180.64 Emergency Position Indicating Radio Beacons (EPIRB)

The NPRM proposed that vessels on oceans and coastwise routes have on board a Category 1 (406 MHz) satellite EPIRB, and that vessels on the Great Lakes have either a Category 1 EPIRB or a Class C EPIRB which operates on the VHF–FM band. Current EPIRB regulations require a Class A (121.5/243 MHz) EPIRB on vessels on ocean and coastwise routes, except for coastwise vessels with a VHF–FM radio which have a route which does not extend more than 20 miles from a harbor of safe refuge. Vessels on Great Lakes routes are required to carry either a Class A EPIRB or a Class C EPIRB. The NPRM proposed a six-year phase-in period for replacement of the Class A and Class C EPIRBs on existing vessels, and proposed to no longer exempt vessels operating within 20 miles of a harbor of safe refuge from carrying an EPIRB.

Several comments expressed general support for the proposed EPIRB requirements. Some were especially supportive of the proposal to eliminate the present Class A EPIRB exemption for vessels operating within 20 miles of a harbor of safe refuge. There were several other comments that expressed concern about the anticipated high cost of the Category 1 satellite EPIRB. Some stated that the cost could not be justified, especially for those vessels which did not go more than a few miles offshore, or for vessels which were built to a higher safety standard. One comment suggested that EPIRBs should not be required on vessels which go as far as 25 miles offshore. Some comments suggested shorter phase-in periods for Category 1 satellite EPIRBs, while another favored a longer phase-in period. Two comments expressed concern about allowing the Class C EPIRB to be continued in use on the Great Lakes because of its limited effectiveness.

A study prepared by the Coast Guard, based on casualty statistics over the last 20 years, reexamined the requirements for survival craft on small passenger vessels, including the role and effectiveness that Category 1 satellite EPIRBs will have on rescue times. The study has been entered in the docket and is available for public inspection and copying. A review of the five small passenger vessel "abandon-ship" casualties which have occurred over the past 20 years within three miles of the coastline, shows that an EPIRB would not have been a factor in rescue operations in any of these cases. These casualties were the PEARL C, DIXIE LEE II, SAN MATEO, FANTASY ISLANDER, and MERRY JANE. On the other hand, recommendations favoring the carriage of an EPIRB were made as the result of Coast Guard and NTSB casualty investigations involving the COMET (7 miles offshore), the JOAN LA RIE III (8.5 miles offshore), and the COUGAR (40 miles offshore). Both the COUGAR and the COMET were not operating as inspected passenger vessels. The COMET had 27 persons on board, but its COI had been removed because of numerous deficiencies, including deteriorated hull planking. The COUGAR was operating with only six passengers as an uninspected passenger vessel. Although it may be inappropriate to include these two vessels in a casualty analysis relevant to inspected small passenger vessels, the lessons learned can be applied.

The regulations proposed in this SNPRM have been revised to parallel the EPIRB requirement for commercial fishing vessels in 46 CFR part 25, subpart 25.26. Each small passenger vessel which operates on the high seas or which operates beyond three miles from the coastline of the Great Lakes, would be required to have a Category 1 satellite EPIRB. The high seas, as defined in 33 CFR 2.05–1(a), are those waters more than 3 miles from the territorial sea baseline, which generally follows the coastline. The Great Lakes requirement is proposed to apply beyond three miles from the coastline. The definition of high seas, as defined in 33 CFR 2.05–1(a), will be repeated in § 175.400 of subchapter T (K § 114.400). Many small passenger vessels in tour, dinner, or ferry services do not go beyond three miles from the coastline and suspend services in bad sea conditions, and would not be required to carry a Category 1 satellite EPIRB. As compared to the NPRM, excluding vessels which operate within 3 miles on ocean, coastwise, and Great Lakes routes will reduce the cost to some operators since they will no longer be required to carry and maintain EPIRBs of any kind.

The Coast Guard does not agree with some comments which suggested that EPIRBs were unnecessary or could not be justified in terms of cost. The cost of Category 1 satellite EPIRBs is not as great as stated in some of the comments. Current prices range from $800 to $1200. Some of these EPIRBs incorporate a hydrostatic release which must be replaced every 2 years at a cost of about $80. Batteries must be replaced every 4 to 5 years at a cost of $200 to $400.

Some comments expressed concern about the reliability of the new Category 1 satellite EPIRBs. However, there is no basis to question the reliability of EPIRBs. Each EPIRB must go through an extensive series of electronic and environmental tests before being type approved by the FCC. According to COSPAS–SARSAT, an international organization which manages the 406 MHz satellite distress system worldwide, the 406 MHz system has already been credited with assisting in the rescue of 32 persons in distress cases as of December 1990.

As discussed in a following preamble section, under subpart E of this part, the Coast Guard is proposing new survival craft requirements which are a significant reduction, in some cases, from the regulations that were proposed in the NPRM. These reductions can be

justified only if casualty notification and location is improved through the use of Category 1 satellite EPIRBs. The widespread use of Category 1 satellite EPIRBs is expected to significantly improve the efficiency of the Coast Guard's search and rescue operations and reduce the Coast Guard's cost in many rescue cases. Phase out of Class A EPIRBs will also reduce the number of false alarms, estimated to cost the Coast Guard $4,130 each. During one 6-month study period in 1988, 15,426 alerts were recorded, of which only 28 proved to be real emergencies.

Section 180.15(f) of the NPRM proposed a six-year period for phasing-in the new Category 1 satellite EPIRB requirements, and phasing-out Class A and Class C EPIRBs. The rules proposed in this SNPRM have been revised to coincide with the FCC's implementation date for the global maritime distress and safety system (GMDSS). Under § 180.15(g) (K § 117.15(f)) of the NPRM, Class A EPIRBs already on board vessels as of a date 45 days after the effective date of the final rule could be used until February 1, 1999. However, as the result of an FCC rule in 47 CFR 80.1053, Class A EPIRBs manufactured before October 1, 1988 are no longer permitted to be used to meet Coast Guard requirements. Under § 180.15(h) (K § 117.15(g)) of this SNPRM, vessels on Great Lakes routes with Class C EPIRBs already on board as of a date 45 days after the effective date of the final rule for this docket, could use the Class C EPIRBs until February 1, 1999. Under § 180.15(i) (K § 117.15(h)) of this SNPRM, coastwise vessels operating within 20 miles of a harbor of safe refuge and not equipped with a Class A EPIRB, would have to have a Category 1 satellite EPIRB by one year after the date of publication of the final rule for this docket. This schedule will get Category 1 satellite EPIRBs on vessels which presently have no EPIRBs, and allow owners of vessels presently required to carry EPIRBs a reasonable time to replace their existing less effective EPIRBs.

Section 180.68 Distress Flares.

The NPRM proposed a minimum of six hand red flares and six hand orange smoke signals for oceans, coastwise, and Great Lakes service, and three hand red flares and three hand orange smoke signals for lakes, bays, and sounds, and river service. Alternative signal combinations were also listed, all totalling twelve signals for oceans, coastwise, and Great Lakes service, and six for lakes, bays, and sounds, and river service. A vessel operating on short runs limited to approximately 30 minutes away from the dock would not be required to carry distress flares and smoke signals. One comment suggested that vessels not more than one mile from shore in daylight, and on rivers not more than 1/2 mile wide should be exempt from flare requirements. The Coast Guard does not agree with this suggestion. In many cases these vessels would be under the 30 minute exemption. Some vessels may, however, make long trips close to shore. These vessels should be able to attract the attention of persons on shore who do not have marine radios. Flares and smoke signals are an inexpensive way to provide this capability.

One comment said that vessels in oceans and coastwise service should carry parachute flares for general locating and hand flares for pinpointing location, but another said that parachute flares were too expensive. Another comment suggested that vessels in lakes, bays, and sounds, and river service also be required to carry a total of twelve signals unless on a route of 30 minutes or less. The Coast Guard realizes that parachute flares are generally more effective distress signals than hand flares or smoke signals, and that additional flares for vessels in lakes, bays, and sounds, and river service would provide additional alerting and locating capability. However, there has been no indication from casualty experience that the requirement for hand flares needs to be upgraded, or that the number of flares needs to be increased for lakes, bays, and sounds, or river service. As explained below, the regulation proposed in this notice would give operators more options for carriage of parachute flares in place of hand flares and smoke signals.

One comment recommended that requirements for flares on Great Lakes services be the same as for oceans and coastwise services. The Coast Guard agrees and has incorporated this suggestion in this SNPRM. In the NPRM, the basic requirement was the same, but Great Lakes vessels had an additional option. As discussed below, carriage options have been unified for all services.

One comment said that each vessel should carry flares since it would be difficult to determine whether or not a vessel was on a short run of 30 minutes or less. In order to qualify for the flare exemption, the vessel's COI must carry the 30 minute endorsement and the vessel must operate on a route which complies with the restriction. Therefore, the Coast Guard sees no particular difficulty in determining whether or not a vessel is on a short run of 30 minutes or less.

There was a suggestion to extend service life of signals to 4 years since many expired flares are in good condition. Although many flares will be in serviceable condition at the end of their present 3–1/2 year service life, others will not be serviceable. A recent study of expired signals conducted by Underwriters Laboratories for the Coast Guard, indicated that an extension of the service life could not be justified on the basis of the number of unserviceable signals found.

The requirements proposed in this SNPRM are basically the same as those proposed in the NPRM, but they have been simplified. The requirements for oceans, coastwise, and Great Lakes service remain six hand red flares and six hand orange smoke signals. The requirements for lakes, bays, and sounds, or river service remain three hand red flares and three hand orange smoke signals. Alternative higher-performance signals, such as rocket parachute flares, are listed as acceptable substitutions for the hand flare and smoke signals. This gives the operator the option of carrying one or two parachute flares, for example, in place of one or two hand flares or smoke signals. In the NPRM, the only alternatives for an operator wanting to carry parachute flares were to either carry twelve parachute flares in substitution for the six hand flares and six hand smoke signals, or else carry the parachute flares in addition to the six hand flares and six hand smoke signals.

Paragraph (e), on stowage, has been revised in this SNPRM to remove a reference to 46 CFR 160.038, a specification on the construction of a portable magazine chest. The reference has been replaced with a new ASTM standard, ASTM F—[Reserved for number of standard being developed by ASTM], "Pyrotechnic Locker", which is expected to be approved and published by ASTM in 1994.

Section 180.70 Ring Life Buoys

The NPRM proposed requirements for a minimum of one 20-inch ring life buoy for vessels up to 26 feet, one 24-inch buoy for vessels up to 65 feet, and three 24-inch buoys for vessels over 65 feet. On oceans and coastwise routes, the ring life buoy would be required to be orange. One ring life buoy would be required to have a 60-foot lifeline. Unless limited to daytime operation, one ring life buoy would have to be equipped with a floating waterlight. One comment said that the ring life buoys should be the same minimum size regardless of boat length. Although larger life buoys do provide somewhat better flotation performance than

smaller life buoys, the Coast Guard has not adopted this comment. For smaller vessels, such as those under subchapter T, smaller life buoys have been accepted to facilitate their stowage.

Another comment suggested that at least two ring life buoys be required on vessels from 26 to 40 feet in length. The Coast Guard does not agree. Vessels of this size are small enough so that the ring life buoy should be able to be obtained readily from any point on board. Accident experience does not suggest that an increase in the number of ring life buoys on vessels of this size would be justified.

This comment also suggested that all ring life buoys have lines to get off a second throw, if necessary. The Coast Guard does not think it is necessary for all ring life buoys to have lines. Although a ring life buoy with a lifeline can be pulled back and thrown again, there is also some advantage in having ring life buoys unencumbered by lines and lights. They can be thrown more easily without the risk of being fouled in a tangled line. On larger vessels, which are not generally as maneuverable as small vessels, it may be safer to leave a person in the water without a lifeline from the vessel while the vessel maneuvers to get into position for recovery of the person. Once alongside, the ring life buoy with the lifeline can be thrown in order to pull the person back to the side of the vessel.

For consistency and safety, one comment recommended that ring life buoys on vessels in all services be required to be orange. Approved ring life buoys are either orange or white. Both colors provide good contrast against clear or muddy waters. Orange ring life buoys are generally considered better under glare, foam, and whitecap conditions. Many operators prefer the appearance of white ring life buoys, however, so the use of orange ring life buoys has not been required except in ocean and coastwise service, even though they would provide better visibility on other waters in some cases. Experience with accidents on vessels in Great Lakes, lakes, bays, and sounds, and river service does not suggest that an improvement in visibility is needed.

One comment noted that the wording of paragraph (c) would allow the addition of non-buoyant lifelines on ring life buoys as long as one life buoy had a buoyant lifeline. The comment suggested that all ring life buoy lifelines be required to be buoyant. The Coast Guard agrees. If an operator decides to have lifelines on additional life buoys, the additional lifelines should also be buoyant. However, on a vessel which carries more than one ring life buoy, at least one ring life buoy should be required to be free of a lifeline for the reasons discussed previously. Paragraph (c) has been revised accordingly.

One comment recommended that each floating waterlight be attached to its ring life buoy by a clip at the end of its lanyard, rather than being securely attached. Since the lights make it hard to throw the life buoy, the clip would allow them to be quickly disconnected for daytime use, when the light would not be needed. The Coast Guard agrees with this comment, and has incorporated it into paragraph (d) of this SNPRM for vessels carrying only one ring life buoy. As discussed previously, there is good reason to have unencumbered life buoys—the light interferes with throwing the life buoy. The clip would allow the waterlight to be disconnected and make throwing of the ring life buoy easier when the light is not needed. The Coast Guard solicits comments on whether the clip requirement should be included in the final rule. Questions that should be considered are: Do vessels under 65 feet in length carrying only one ring life buoy need to have a detachable water light, since they should be readily maneuverable and able to come alongside a person in the water quickly? On vessels over 65-feet with three ring life buoys, is a clip required on a water light lanyard if the ring life buoy is not the one with a lifeline?

Another comment said that ring life buoys should be in sight of every passenger regardless of the number of ring life buoys required. While the Coast Guard agrees in principle with this comment, on some vessels this could lead to an unnecessarily large number of ring life buoys. No change has been made from the wording in the NPRM which requires that the life buoys be readily accessible.

Section 180.71 Lifejackets

The NPRM would require an adult-size lifejacket for each person permitted on board a vessel. In addition, if children were to be carried, child-size lifejackets would be required in a number equal to at least 10% of the number of passengers permitted on board. More child-size lifejackets would be needed as necessary to provide appropriate sizes for everyone on board. There were several comments in general agreement with the lifejacket proposals, and in particular with the provisions for child-size lifejackets. Two comments recommended that vessels be permitted to temporarily use lifejackets from other vessels, especially in cases where they are needed for unusually large numbers of children on board. This would save the expense of having every vessel equipped with large numbers of child-size lifejackets for the occasional carriage of large numbers of children. The Coast Guard has no objection to the temporary use of lifejackets from other vessels. Because the number of persons permitted to be on board by the COI is in part determined by the number of serviceable lifejackets on board at the time of inspection, the carriage of additional persons needs to be authorized by the OCMI. OCMIs have the authority to authorize such temporary use, and it does not need to be specifically addressed in the regulations. However, lifejackets carried temporarily should not have to be marked with the name of the vessel. The marking requirements in § 185.604(b) of this SNPRM have been revised for clarification.

One comment noted the apparent discrepancy between the percentages of extra lifejackets carried for children based on the number of passengers permitted on board, and the existing requirement for child-size lifejackets in 46 CFR 180.25–5(a), which is in terms of the number of persons permitted on board. The recommendation was made that both should be consistent and based on the number of persons permitted on board. The Coast Guard agrees, and paragraph (b) has been revised in this SNPRM.

One comment suggested that the last sentence of paragraph (b) should permit elimination of the child-size lifejackets only if the COI is endorsed for the carriage of adults only. The Coast Guard agrees that the elimination of child-size lifejackets should be dependent upon an endorsement on the COI for the carriage of adults only, because this endorsement would remove some of the ambiguity of the wording proposed in the NPRM as to whether or not children were carried. Paragraph (b) has been amended accordingly.

Another comment suggested that the size limit for lifejackets be identified in regulations to avoid confusion. A simple regulation change could be made if the lifejacket size limit changes. Lifejacket size limits are usually based on the maximum weight of the person which can use the lifejacket. The maximum size limit for child-size lifejackets is typically 90 pounds, but cannot be identified in regulations because it may be different for different lifejacket designs. The size limits are clearly marked on lifejacket labels.

One comment observed that the NPRM contained no provision for the acceptance of cork or balsa lifejackets, many of which are still serviceable even

though they are no longer produced. The last of the approved cork and balsa lifejackets were produced over 25 years ago. Because of performance and reliability concerns, they have not been allowed on commercial vessels on international voyages since 1965. The Coast Guard's position is that most of these lifejackets still on small passenger vessels have reached the end of their useful lives and have been or should be replaced. As in the NPRM, they would not be allowed for use.

Section 180.75 Lifejacket Lights

The NPRM contained no substantive change from the existing requirements for lifejacket lights. Each lifejacket carried on a vessel on an oceans, coastwise, or Great Lakes route, would be required to have a lifejacket light. An exception to the lifejacket light requirement would apply to ferries, and vessels on routes not more than 20 miles from a harbor of safe refuge. One comment complained about the low quality of existing battery powered lifejacket lights. The Coast Guard is not satisfied with the quality of some of the existing battery powered lifejacket lights approved under 46 CFR 161.012. Some newer lifejacket lights meeting the 1983 Amendments to SOLAS must go through additional testing that appears to result in lights of a higher quality (and a higher price). In addition to being identified with Coast Guard approval numbers of both the 161.012 and the 161.112 series, these lights have markings indicating that they meet the 1983 SOLAS Amendments. The Coast Guard is planning a future rulemaking on lifejacket lights which will address the quality and testing of these lights.

Another comment suggested elimination of the 20 mile exemption, citing the same reasoning used in the NPRM to justify the carriage of EPIRBs in this same area. No change has been made to the exemption for vessels on routes not more than 20 miles from a harbor of safe refuge. The Category 1 satellite EPIRBs and inflatable liferafts, inflatable buoyant apparatus, life floats, or buoyant apparatus that vessels would have to carry under the rules proposed in this SNPRM would all be equipped with locating lights. Once the EPIRBs and survival craft have been located, search and rescue forces should be able to locate persons in the water at night by the retroreflective material which is already required on each lifejacket. Vessels operating within 20 miles from a harbor of safe refuge should be close enough to search and rescue facilities so that persons in the water should not become separated too far from the survival craft by the time assistance arrives on scene, especially with the rapid distress notification expected with the Category 1 satellite EPIRBs.

Section 180.78 Stowage of Lifejackets

The NPRM contained a number of stowage requirements intended to make lifejackets readily identifiable and available. One comment expressed confusion over the requirement for distribution of lifejackets throughout accommodation spaces, but in a container designed to allow the lifejackets to float free if practicable. The comment said that the lifejackets could not float free from accommodation spaces. There is no conflict between the requirements for distribution of lifejackets throughout accommodation spaces, and to be in float free containers if practicable. The definition of "accommodation space" proposed in § 175.400(b) does not limit such spaces to enclosed decks. Therefore, any open-deck accommodation space could have a float free container.

Another comment said that lifejackets should be accessible throughout the vessel without any intervening obstructions, including stairways and doors, and not just on an upper deck in a float free container. The proposed regulation would require lifejackets to be distributed in convenient places throughout accommodation spaces. Appropriate convenient places might require passage through doors or stairways on some vessels, but not on others. The suggested change has merit, but is considered too restrictive. No change has been made to the rule proposed in the NPRM.

Section 180.110 Survival Craft Embarkation Ladders

The NPRM included a proposed requirement for an embarkation ladder at each embarkation station, if the distance from the deck to the vessel's lightest operating waterline is more than 10 feet. Embarkation ladders are not addressed in the existing regulations in subchapter T. One comment suggested this requirement is inappropriate for dinner boats, regardless of size or capacity, and should be deleted. The reason given in the comment was that if it is necessary to abandon a dinner boat, any location close to the water and away from the area of the vessel threatened by fire, flooding, or other danger would be appropriate. The Coast Guard considers an embarkation ladder to be necessary on any vessel, including dinner boats, if the vessel carries survival craft which are not davit launched. No change has been made to the rule proposed in the NPRM.

The Coast Guard's position is that, for their own safety, passengers should not have to jump very far in order to board a survival craft or otherwise debark the vessel in an emergency. From a distance of five feet, passengers can be readily assisted by crew members. For heights greater than five feet, an embarkation ladder or other embarkation appliance should be provided. The Coast Guard realizes that embarkation ladders or appliances for small vessels of the type which are proposed to be regulated by subchapter T, especially small party (or head) boats or small harbor tour boats, are not very practical. In this SNPRM, the Coast Guard is proposing to retain the 10-foot limit for vessels which would be regulated by subchapter T, but is proposing to decrease it to 5 feet for vessels proposed to be regulated by subchapter K.

For simplification, this section has been combined with § 180.150 of this SNPRM so that all embarkation arrangement requirements are located in one section.

Section 180.130 Stowage of Survival Craft

The NPRM contained a number of requirements for the stowage of survival craft, including painter arrangements, float-free arrangements, and requirements for getting survival craft over or through a rail. Most of the comments on this section were statements in agreement with the proposals. Several comments, responding to a request for comments in the preamble of the NPRM, addressed themselves to paragraph (c) which proposed a requirement for a mechanical, manually operated device to assist in launching a survival craft, if the survival craft weighs more than 200 pounds and requires lifting to be launched. One comment incorrectly interpreted this as a requirement for liferaft launching davits. Although a lifting device might take the form of a small davit, it would merely be an aid to lifting the survival craft over the rail or bulwark, and would not be a liferaft launching davit. The Coast Guard believes that most operators affected by this requirement would opt for a gate in the rail or bulwark adjacent to the survival craft, so that lifting would not be required. Therefore, no change was made to the rule proposed in the NPRM.

Five comments addressed the 200 pound criterion for requiring mechanical assistance to launch a survival craft if the survival craft has to be lifted to be launched. One said the criteria should be raised to 400 pounds to be consistent with a 185 kg (407 pounds) weight limit in SOLAS.

Another comment noted that the SOLAS weight limit was too heavy for lifting, and supported the 200 pound proposal. Another said that 200 pounds is excessive and the limit should be lowered to 100 pounds. The NPRM preamble stated that as many as three people might be needed to lift even a 200 pound liferaft. The fourth comment questioned how this might be accomplished on a vessel which did not have a total of three crewmembers. The last comment questioned why the 200 pound weight limit was needed when the present 400 pound limit has not proven to be excessive. The 200 pound limit has been retained in the rules proposed in this SNPRM. If a particular vessel with a 200 pound liferaft does not have a total of three crewmembers, then passengers would have to assist in getting it over the rail. Contrary to one comment which stated that a 400 pound weight limit has not proven to be excessive, there have been several casualties in which liferafts weighing close to 400 pounds could not be lifted over the rail. These were discussed in the NPRM preamble. The SOLAS 185 kg limit is not exactly analagous. SOLAS links this limit with transportability of the liferaft over an open deck, rather than the need to lift it over the rail.

One comment suggested a revision that would require any protective covers to be arranged so that they do not interfere with launching. Another comment stated that survival craft are often stowed on top of cabins and awnings and are difficult to get to, and that there needs to be a means to get to them or a launching device that can be operated remotely. The Coast Guard agrees with the need for these revisions. To include these new requirements on access and protective covers, paragraph (a) has been revised in this SNPRM.

Section 180.137 Stowage of Life Floats and Buoyant Apparatus

The NPRM included stowage requirements for life floats and buoyant apparatus which are essentially identical to the present regulations, with the exception of a 200 pound weight limit on each group of life floats and buoyant apparatus on a single painter, in place of the present 400 pound limit. One comment questioned the need for the 200 pound weight limit in paragraph (e)(1), if the deck loads are not excessive. The 200 pound weight limit was intended to be consistent with the 200 pound limit in § 180.130(c)(1) and had nothing to do with deck loads. The current 400 pound limit is based on the assumption that any group of life floats and buoyant apparatus will have to be moved and launched together, and that 400 pounds is the maximum weight that can reasonably be expected to be transportable over an open deck. The rules proposed in this SNPRM return to the 400 pound weight limit, except for a group of life floats and buoyant apparatus which must be lifted to be launched, in order to be consistent with § 180.130(c)(1).

Section 180.150 Survival Craft Embarkation Arrangements

This section proposed that a survival craft launching appliance be provided when either the embarkation station is on a deck more than 15 feet above the waterline, or the survival craft is boarded prior to being placed in the water. One comment said that launching appliances are not needed for dinner boats regardless of size or capacity because buoyant apparatus can be lowered to the water and used easily. The comment described maintenance as constant and expensive, and also discussed complexity and crew training. The comment added that any improvement in passenger safety is not justified by cost. Another comment also noted that crew size might have to be increased if launching appliances are used. Regardless of the service of the vessel, some type of launching appliance is required if the embarkation deck is located too far above the waterline, whether or not crew size would have to be increased. Survival craft launching appliances such as davits and slides are designed to be used with inflatable liferafts and inflatable buoyant apparatus, not with life floats and buoyant apparatus. This section has been revised in this SNPRM to clarify that it should apply only to vessels equipped with inflatable liferafts or inflatable buoyant apparatus.

The survival craft embarkation ladder requirements proposed in § 180.110 of the NPRM have been combined into this section of this SNPRM so that all survival craft embarkation arrangement requirements are located in one section.

Section 180.175 Survival Craft Equipment

This SNPRM deletes survival craft equipment requirements for inflatable buoyant apparatus from this section. Unlike the equipment for life floats and inflatable liferafts, equipment requirements for inflatable buoyant apparatus are included in approval specification provisions.

Subpart E—Number and Type of Survival Craft

The NPRM proposed that many small passenger vessels operating on cold waters carry inflatable liferafts or inflatable buoyant apparatus. The NPRM proposals were based on the assumption that passengers would be at increasing risk from the effects of hypothermia as water temperature decreased, and the time to rescue increased. Consequently, the NPRM proposed increasing levels of protection from immersion in cold water as water temperature decreased and distance offshore increased.

Although some comments supported the proposal and some even suggested increases in the proposed requirements, most comments from operators opposed them, citing a good safety record which did not justify the cost required to comply. Comments raised many issues of varying merit. Some said that length of trip and distance from shore should be a factor in determining what survival craft are required. Others disagreed with the water temperature criteria used to differentiate between cold and warm water. Some comments suggested that hull material, subdivision, and fire protection should be taken into account when determining which vessels are to carry survival craft. The high cost of buying and maintaining inflatables was cited as a reason for objecting to the proposals.

In order to address the comments, the Coast Guard prepared a study which reexamined the requirements for survival craft on small passenger vessels. This study takes into account several factors that were not included in the analysis which led to the previous proposals. These include the effect that Category 1 satellite EPIRBs will have on rescue times, and the reduced risk of loss that a vessel has if equipped with appropriate fire protection equipment and subdivision. The study examines the casualty record of the 16 small passenger vessel losses over the past 20 years where there was loss of life, loss of the vessel, or both. It does not include casualties on small passenger vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers such as the PILGRIM BELLE, and MAJESTIC EXPLORER (which would be regulated under proposed subchapter K). The study has been entered in the docket and is available for public inspection and copying in the offices of the Marine Safety Council at the address under "ADDRESSES:".

Briefly, the study shows that all but one of the casualties involved vessels of wooden construction, and that these vessels were much older than the small passenger vessel fleet as a whole. The casualties fell into three broad categories: Capsizings; fires; and hull or through hull fitting failures. The

capsizings could not be associated with the age or material of construction. The three fires originated in the engine compartment and spread throughout the wood vessels, leading to abandonment of the vessels. The hull and through hull fitting failures were associated with undetected deterioration of the wood hull or fittings.

The study suggests that small passenger vessels need better protection from fire and flooding, especially as they age. The NPRM and this SNPRM propose that all new small passenger vessels and existing small passenger vessels constructed of FRP must have fixed fire extinguishing systems in machinery spaces, and that certain vessels be built to a one-compartment standard of subdivision. As discussed under § 181.115 of this preamble, this SNPRM proposes that existing wood vessels be required to retrofit fixed fire extinguishing systems. This SNPRM also proposes, for some vessels operating on cold waters, subdivision as an alternative to outfitting the vessel with inflatable buoyant apparatus, as proposed in the NPRM. Watertight subdivision bulkheads improve the survivability of a vessel and help make the vessel its own best survival craft. Retrofitting subdivision will be difficult and may be impractical for some existing vessels, but will be an alternative for certain vessels.

The retrofit requirements and alternatives proposed in this SNPRM will have the beneficial effects of requiring or encouraging the vessels most at risk to have adequate lifesaving and firefighting equipment, and remove part of the cost disincentive for replacement of older vessels.

The study also examined the role of Category 1 satellite EPIRBs on rescue times. It concluded that when a Category 1 satellite EPIRB is successfully used, the Coast Guard should be able to have rescue resources on the way to the scene of a casualty within 2.5 hours for most casualties that occur within 50 miles of the coast of the United States. Further offshore, more than 50 miles off the coast, it becomes more difficult for helicopters to stay on scene for extended periods of time or to ferry survivors to shore and return for more survivors. Other vessels are also less likely to be close by to assist a vessel in distress, compared to areas closer to shore. On the other hand, closer to shore, within three miles of the coastline, EPIRBs of any kind would not be necessary. The high seas designation was introduced into the lifesaving regulatory scheme by the acts which required fishing vessels and other uninspected vessels to carry EPIRBs. The high seas break point tracks much better with the small passenger vessel casualty record than present exemption for vessels operating within 20 miles of a harbor of safe refuge. High seas, as defined in § 175.400 of this SNPRM using the definition in 33 CFR 2.05–1(a) for consistency with other laws and regulations, means all waters which are neither territorial seas nor internal waters of the United States or of any foreign country. Generally, this includes waters more than three miles offshore. EPIRB requirements are more fully discussed under § 180.64 of this preamble.

The study documented several cases where the limited buoyancy of a buoyant apparatus, and its inability to support at least some survivors out of the water, reduced the effectiveness of the buoyant apparatus. Life floats are better lifesaving devices. The rules proposed in this SNPRM will no longer require buoyant apparatus, but will require life floats instead. Existing buoyant apparatus will be phased out by allowing them to meet the requirement for life floats, so long as the buoyant apparatus are in good and serviceable condition.

In determining the amount and type of survival craft to be required, the Coast Guard also tried to balance its public responsibility for crew and passenger safety against industry concerns, as expressed in the comments to the NPRM, by looking at vessel factors such as survivability, casualty analysis and rescue scenarios, number of passengers, overall level and type of other required equipment, and route.

In developing a scheme for the capacity of survival craft which should be carried on a vessel, the Coast Guard philosophy was that, except in limited circumstances, if survival craft are needed, enough should be provided for everyone on board, not just a small percentage. The Coast Guard took into consideration the fact that inflatable buoyant apparatus can be overloaded in calm water, and still keep people out of the water, while life floats used at their rated capacity leave people in the water hanging on to the outside of the life float. Therefore, life floats should not be overloaded in circumstances where rescue resources (Coast Guard or other vessels which would be nearby) will not quickly arrive on scene in case of an accident.

Overall, the survival craft requirements proposed in this SNPRM have been reduced from those in the NPRM in consideration of the proposed requirements for bilge level alarms, increased carriage of Category 1 satellite EPIRBs, increased radar requirements for certain ferries on rivers routes (see § 184.404 of this preamble), and increased installation of fixed fire extinguishing systems.

The Coast Guard is proposing in this SNPRM that vessels which would be regulated by proposed subchapter T and certificated to go beyond 50 miles from the coast, should be equipped with inflatable liferafts for everyone on board. At these distances, vessels may not be able to return to port in time to avoid adverse weather and sea conditions. Rescue may take an extended period of time, even with the use of Category 1 satellite EPIRBs. Inflatable liferafts provide the necessary protection and equipment for a survival period which extends overnight, or even for a day or two, at sea.

For vessels operating on ocean routes not more than 50 miles offshore, and on coastwise routes, Category 1 satellite EPIRBs will be the primary means of distress alerting and then locating the vessel. The Coast Guard's position is that small passenger vessels in the highest risk categories should be equipped to allow passengers to disembark and survive for at least four hours at sea. The higher risk vessels are primarily the older wooden vessels which do not have one-compartment subdivision. For water temperatures less than 59° F, this SNPRM proposes that these vessels have inflatable buoyant apparatus for everyone on board. For vessels with one-compartment subdivision, and for those without one-compartment subdivision operating in warmer waters, life floats for everyone on board would suffice. For some vessels, this will mean phasing out buoyant apparatus and replacing them with life floats over a period of time as they become unserviceable. As discussed above, the rules proposed in this SNPRM would permit existing buoyant apparatus to meet the requirement for life floats, so long as the buoyant apparatus are in good and serviceable condition.

For small passenger vessels operating in shallow waters on lakes, bays, and sounds and rivers routes a provision for exemption from survival craft requirements has been included in this SNPRM, as suggested in some of the comments.

The Coast Guard's study on survival craft requirements discusses the fact that a vessel carrying a large number of passengers could overwhelm the capacity of rescue resources which could be quickly brought on scene to assist persons in the water. The Coast Guard's largest helicopter can accommodate 10 to 15 persons in addition to the aircrew in an emergency.

This helicopter will be replaced over the next few years with one that has a higher speed and longer range, but smaller passenger capacity. It is anticipated that a major surface rescue effort would have to be initiated from shore or by vessels already in the area to provide rescue assistance to vessels proposed by this SNPRM to be regulated by subchapter K (vessels carrying more than 150 passengers or having overnight accommodations for more than 49 passengers). For persons in cold water suffering from hypothermia, time is of the essence, and they might not be able to wait for large vessels to arrive. For this reason the Coast Guard considers increased survival craft requirements to be necessary for these vessels, to provide protection in the event of a low probability, high consequence accident.

In determining the type and amount of survival craft necessary, the Coast Guard realizes that subchapter K vessels will already have smoke actuated fire detection systems, engine room fire extinguishing systems, grease extraction hoods with fire extinguishing systems, structural fire protection, higher subdivision and stability standards than a subchapter T vessel, and bilge level alarms. However, it should be noted that the use of flammable finish and interior construction materials proposed in this SNPRM is less restrictive than proposed in the NPRM. The Coast Guard is proposing in subchapter K of this SNPRM:

(a) That all vessels traveling more than 50 miles from shore have liferafts for all persons on board. Vessels on oceans routes not more than 50 miles offshore must have inflatable buoyant apparatus for all persons on board;

(b) That all vessels with overnight accommodations for more than 49 passengers operating on coastwise, Great Lakes, and lakes, bays, and sounds routes must have inflatable buoyant apparatus for all persons on board;

(c) That all vessels with overnight accommodations for not more than 49 passengers operating on coastwise, Great Lakes, and lakes, bays, and sounds routes must have survival craft based on route and water temperature; and

(d) That all vessels operating on a rivers route in cold waters must have life floats for 50 per cent of the persons on board. No survival craft are required in warm waters; and

In this SNPRM the Coast Guard is proposing a provision to exempt vessels operating in shallow waters on lakes, bays, and sounds and rivers routes from survival craft requirements, as suggested in some of the comments. Vessels with ferry boat type operations (i.e., operating on a specific route between two points on a set schedule), which maintain a 15 minute radio communications schedule with an operations base, and which have routes that never take them farther than 20 miles from a harbor of safe refuge, would be able to substitute lifefloats for inflatable buoyant apparatus if the OCMI determines that it would be safe to do so.

The survival craft requirements proposed in subchapters T and K of this SNPRM are summarized in the "Survival Craft Requirements Table" below.

In a separate rulemaking project entitled "Commercial Fishing Industry Vessel Regulations" (CGD 88–079) the Coast Guard published safety regulations for fishing vessels as a Final Rule in the **Federal Register** (56FR40364) on August 14, 1991. These regulations contain survival craft and immersion suit requirements which apply to vessels operating in areas where the mean water temperature is 59° F (15° C) or less (i.e., "cold water"). Sections 180.202, 180.204, 180.206, and 180.208 of the subchapter T NPRM also contained survival craft requirements dependent on water temperature. In order to establish consistent boundaries for cold water areas, which would apply to all classes of vessels with requirements dependent on water temperature, the Coast Guard decided to publish a NVIC specifying geographic limits of cold water areas. Use of a NVIC rather than specifying cold water/warm water areas in the regulations gives several benefits: (1) Allows flexibility and ease of change to update geographical limits of areas having seasonal cold water; (2) seasonal changes and geographical limits can be portrayed on chartlets which can be quickly accessed and easily understood; and (3) avoids repetition of a long list of geographical boundaries in more than one location or set of regulations. As a result, the Coast Guard published NVIC 7–91, "Determination of Cold Water Areas", on May 20, 1991. The appropriate paragraphs of the NPRM have been removed from this SNPRM.

Section 180.210 Rescue Boats

Under the NPRM, vessels would be equipped with a rescue boat, unless the OCMI determined that the vessel is operated and arranged in such a way that it can recover persons who fall overboard. Vessels under 65 feet would be exempt if they do not carry passengers on an open or partially enclosed deck. Rescue boats on vessels over 65 feet in length would have to meet the same requirements as on passenger vessels over 100 gross tons, but rescue boats on smaller vessels would only have to be acceptable to the OCMI. Some comments supported application of rescue boat requirements by OCMIs, but others were concerned with the possibility of arbitrary and inconsistent application of the requirements by different OCMIs. The Coast Guard agrees that there is potential for inconsistent application of the rescue boat requirements. Rather than outline detailed requirements in the regulations, the Coast Guard intends to provide guidance to OCMIs in the MSM on the application of these requirements. No change was made to the rule proposed in the NPRM.

One comment suggested that "rescue ladders" could perform the same function as rescue boats. A "rescue ladder" is not an acceptable substitute for a rescue boat, because an incapacitated person can not use a ladder or be carried up a vertical ladder. A "rescue platform", however, could be acceptable if it does not present a hazard to the person being rescued, and if there are adequate provisions for bringing the incapacitated person aboard the vessel from the rescue platform. This issue would also be covered in the MSM.

In paragraph (c) of this SNPRM, the reference to subchapter W has been changed to subchapter H.

Part 181—Fire Protection Equipment

Section 181.115 Applicability to Existing Vessels

Paragraph (b) of the NPRM requires only vessels constructed of FRP to be retrofitted with fixed fire extinguishing systems. Three comments thought that existing vessels of FRP construction are unfairly disadvantaged by having to meet the requirements of § 181.400, which specifies where fixed fire extinguishing and detecting systems are required, while existing vessels constructed of other materials don't. These comments wanted § 181.115(b) removed. Other comments identified the same inconsistency but believed the regulation should be simplified by requiring all existing vessels to comply with § 181.400. In addition to the fire casualty statistics presented in the preamble of the NPRM, the Coast Guard has prepared a study based on casualty statistics over the last 20 years. This study reexamines the requirements for survival craft on small passenger vessels, including the role of fixed fire extinguishing systems in machinery spaces. The study has been entered in the docket and is available for public inspection and copying.

The origin of most fires is in the engineroom and is independent of

construction material. Frequent ignition sources involve fuel or lube oil spray contacting a hot surface, or electrical equipment overheating or arcing. Wooden hull vessels have suffered the most severe fires, perhaps because wood absorbs fuel and lubricating oils. This results in a severe fire if the initial fire is not immediately extinguished. Although the hulls of wood and FRP vessels are combustible, threats to human life can develop early in a fire, before involvement of the hull and structure, due to the accumulation of smoke and toxic gasses. This rapidly developing hazard is similar for all vessels regardless of the construction material.

Appropriate concern was expressed in the NPRM by requiring detection and fixed extinguishing systems on all new vessels. As discussed in this preamble, under subpart E of part 180, the Coast Guard is proposing new survival craft requirements which are a significant reduction, in some cases, from the regulations that were proposed in the NPRM. These reductions can be justified only if other means which establish an equivalent safety level, such as improving each vessel's ability to survive a fire at sea, are provided. Fixed fire extinguishing systems are expected to improve a vessel's ability to act as its own survival craft. It is inconsistent from a life safety standpoint to require such systems on all new vessels and on existing vessels of FRP construction, but not on other existing vessels in a similar risk category, such as those made of combustible materials. The Coast Guard has concluded that exempting existing vessels in higher risk categories from fixed fire extinguishing system requirements would provide a cost disincentive discouraging the construction of new and safer vessels. In order to ensure a consistent level of life safety on all small passenger vessels, § 181.115(b) has been revised in this SNPRM to require all existing wooden vessels, as well as FRP vessels, to comply with § 181.400 within 3 years of the effective date of the final rule.

Section 181.120 Equipment Installed But Not Required

Existing Coast Guard policy and regulation, as well as this section of the NPRM, require that excess fire protection equipment and systems be type approved or approved systems. The Coast Guard encourages the use of excess fire protection equipment and is proposing to accept excess systems which are designed, installed, and maintained in accordance with an appropriate industry standard acceptable to the Commandant, such as those of the NFPA. One area of concern is that some standards have not been written with high vibration levels, salt air corrosion, or other characteristics of the marine shipboard environment in mind. The Coast Guard solicits comments on the application of this proposal to small passenger vessels.

Section 181.300 Fire Pumps

Numerous comments expressed concern that the fire pump capacity requirements proposed in the NPRM would cause a large increase in electrical demand thereby necessitating increases in electrical generator size and increasing cost, especially for those vessels just over 65 feet in length. A couple of comments wanted the criteria for hose line flow rates and pitot tube pressures to be replaced with simple pump pressure and flow criteria. One comment specifically recommended that the requirements be graduated according to the size and capacity of the vessel. The Coast Guard has considered these concerns. This SNPRM proposes graduated hose stream requirements which will have a lesser electrical and economic impact than those posed in the NPRM.

The requirements in this SNPRM for fire pumps on vessels carrying not more than 150 passengers closely resemble those in existing subchapter T. Ferry vessels of not more than 65 feet in length carrying not more than 49 passengers generally do not use nozzles that produce a hose stream suitable for measurement with a pitot tube. The fire hose performance criteria for these vessels has been simplified by using flow rate and hose stream throw distance. A pump flow rate of 10 gallons per minute was selected to be compatible with the existing and proposed bilge pump flow rate with which these vessels must comply. A hose stream throw distance of 25 feet was determined to be the minimum effective distance for fighting a small fire.

The criteria proposed in subchapter T of this SNPRM, for vessels of not more than 65 feet in length carrying more than 49 passengers, and vessels of more than 65 feet in length, is the existing requirement for T–L vessels (vessels of more than 65 feet in length).

The Coast Guard's position is that these criteria will keep the requirements of subchapter T simple and compliance can be easily determined without the need to use a pitot tube or take special measurements.

The Coast Guard does not agree that pump pressure and flow criteria would ensure adequate hoseline performance for vessels proposed to be regulated by subchapter K. In proposed subchapter K, the requirement for 2 hoselines to flow at 50 psi pitot tube pressure is reduced to one hoseline for vessels carrying not more than 600 passengers with overnight accommodations for not more than 49 passengers. Vessels with overnight accommodations for more than 49 passengers would have to comply with subchapter H, as would those vessels above the proposed subchapter K/subchapter H breakpoints. On a large multideck vessel, a 15 to 20 horsepower motor should be sufficient to generate two streams at 50 psi pitot tube pressure. This sort of electrical load would significantly impact a head boat near 65 feet in length, but for a vessel with large hotel loads, such as a dinner cruise vessel or a vessel with overnight accommodations for more than 49 passengers, such an electrical load should not present a problem.

One comment liked the option to connect fire pump suction to the bilge system but another believed the opposite because the fire pump could accidentally be run dry. The regulation proposed in the NPRM was not changed. Operators should make sure valves are correctly lined up for operations.

A number of comments responded negatively to the provision requiring remote operation of the fire pump, citing concern over running the pump dry due to valve misalignment. Others wanted to retain the regulation because it reduces response time and frees a crew member to assist in fire fighting operations. Again, assuring correct valve line-up will alleviate concerns over running the fire pump dry. No change has been made to the rule proposed in the NPRM.

Because performance criteria for hoses is included in this SNPRM, § 181.300(f), which addresses fire main piping size, is no longer needed and has been removed.

A number of comments wanted to know if the proposed regulation applied to existing vessels. The proposed regulation would apply only to new vessels as specified in proposed § 181.115.

Section 181.320 Fire Hoses and Nozzles

While one comment agreed that a fire hose with nozzle should remain attached to each hydrant at all times, as required by paragraph (a), several other comments stated that a fire hose should not be attached to each hydrant, but kept stored in a safe, dry area until needed. The comments requested that the rules be made flexible to deal with

cold weather. The Coast Guard will continue to require that the hose be attached to the hydrant under normal weather conditions, because there may not be time in an emergency situation to locate, unroll, and attach the hose to the hydrant. This will ensure that the hose is available for use when and where needed. However, a provision has been included in this SNPRM which permits fire hose to be temporarily removed from the hydrant and stowed in an accessible nearby location. This will be limited to open decks, where no protection is afforded to the hose in heavy weather, or where the hose may be liable to damage from the handling of cargo or stores.

Two comments requested that hoses other than the UL 19 labeled hose proposed by paragraph (b)(1) of the NPRM be authorized for use. The reason cited was that commercial fire hose does not stand up well to weather and fishing vessel operations. The comments suggested that hose similar to that used on fuel trucks be permitted. The latter hose is usually a hard rubber hose of various diameters requiring the use of hose reels to store the hose, while the UL19 fire hose is a standard 1½ inch collapsible fire hose. The Coast Guard has amended this provision in this SNPRM and will permit the use of alternate hose types of the required diameter if such hose is listed and labeled by an independent laboratory as being equivalent in performance to UL 19 fire hose.

One comment proposed allowing fire hose nozzles similar to those used by fire departments, because these nozzles are lighter and more available. The Coast Guard has initiated a program of approving industrial fire hose nozzles as equivalent to the traditional combination fire hose nozzles. A certificate indicating this approval has been issued by the Coast Guard to those manufacturers whose nozzles were determined to be equivalent. Although plastic nozzles are corrosion-resistant and less likely to be stolen, and aluminum nozzles are light in weight, the Coast Guard does not intend to permit the use of plastic or aluminum nozzles where approved nozzles are required. Nozzles made of these materials have not been shown to have the same corrosion resistance and fire safety properties as brass when used as fire hose nozzles in a marine environment. No change has been made to the rule proposed in the NPRM.

One comment requested that in paragraph (d) the words "capable of providing a solid stream or spray pattern" be changed to "capable of being changed between a solid stream and a spray pattern." The Coast Guard has revised paragraph (d) in this SNPRM accordingly.

This section has been revised to make the hose and nozzle requirements match the revised fire pump requirements proposed in this SNPRM.

Subpart D—Fixed Fire Extinguishing Systems

Section 181.400 Where Required

Several comments, including one from the NTSB, supported the proposal in the NPRM to require fixed extinguishing systems. Other comments pointed out that most fires have occurred on wooden vessels, and urged that fixed systems should be required only on wooden and FRP vessels. Although the cause of fire is usually not related to the hull material, the Coast Guard realizes that, because the hull material itself is combustible, wooden vessels are more susceptible to fires spreading out of control, especially engine room flammable liquid fires which are not quickly extinguished. As discussed in this preamble, under Subpart E of Part 180, the Coast Guard is proposing new survival craft requirements which are a significant reduction, in some cases, from the regulations that were proposed in the NPRM. These reductions can be justified only if other means which establish an equivalent safety level, such as improving each vessel's ability to survive a fire at sea, are provided. Fixed fire extinguishing systems are expected to improve a vessel's ability to act as its own survival craft. Therefore, the requirement for fixed fire extinguishing systems on new vessels is retained in this SNPRM. As discussed under § 181.115 of this preamble, it is proposed that fixed extinguishing systems should be retrofitted on all existing vessels of wood and FRP construction.

One comment objected to the use of carbon dioxide because its release would leave the vessel dead in the water, without power, lights, and fire fighting capability. In the case of any engine room fire, it is important to shut down the engine(s) unless a collision is imminent. Section 181.410(b)(10) of this SNPRM would require that powered ventilation and engines which draw intake air from the protected space be shut down automatically prior to the release of the extinguishing agent into the space. This is necessary to prevent depletion of the extinguishing agent and to stop the flow of fuel or lubricating oil which is a likely source of the fire. Fixed extinguishing systems, approved by the Coast Guard under approval number 162.029, which incorporate an automatic engine shutdown are also equipped with a mechanism to permit a quick restart of the engine(s). All approved fixed systems (as well as portable fire extinguishers) are self-contained and do not need vessel power.

Two comments objected to the use of halon due to its decomposition into toxic products during a fire. Another comment recommended that halon be restricted to unmanned spaces. While halon will decompose during a fire, halon systems are designed to extinguish the fire quickly, resulting in a minimum of halon decomposition. The amount of halon decomposing during fire extinguishment will not significantly increase the amount of toxic products generated by the fire itself. Also, the Coast Guard requires spaces protected by halon to be unmanned or personnel must be evacuated before the halon is released. Therefore, the chances of personnel injury due to toxic products of halon decomposition are remote. The Coast Guard is not aware of any case in marine or shore applications since halon was first used as a fire extinguishing agent which has resulted in fatalities or injuries due to toxic products generated by halon decomposition.

One comment questioned the use of halon for environmental reasons (ozone depletion). Halon 1301 and 1211 have been identified as ozone depleters and their production is expected to be phased out by January 1, 1994, through international treaties and domestic regulations. Development of non-ozone depleting alternatives is underway. Until phase-out of production or development of replacement agents, whichever comes first, the Coast Guard will permit the use of halon 1211 and 1301 in portable extinguishers and fixed systems in view of their importance in saving lives during fires. However, fire equipment practices and consensus standards (specifically those of the NFPA) concerning the recycling of halon and testing techniques which do not require the release of halon are expected to limit the release of halon to that needed in fighting fires. In any case, the Coast Guard does not specify the agent, only the type of fire on which it must be effective. The vessel operator chooses the type of agent (halon, carbon dioxide, or dry chemical) which is best suited for a particular vessel.

Many comments objected to the NPRM requirement for fixed systems, citing cost, lack of deaths attributable to fires, and complexity of systems. Some of the comments pointed out that most

fires have occurred on small wooden and FRP vessels. The Coast Guard does not agree with these comments. Many vessels of more than 65 feet in length are relatively new. To wait until fires and fatalities occur before requiring the carriage of fixed systems is not justifiable. Fixed extinguishing systems in the machinery space are a proven fire protection concept. Many fixed systems have been installed voluntarily on pleasure craft by the public. For many small passenger vessels, these systems can be simple and relatively inexpensive.

One comment stated that fixed systems would be useless on some vessels since the extinguishing agent would quickly dissipate up the stack. Proposed paragraph (b)(4) of the NPRM permits the OCMI to waive the requirements for installing a fixed system if it is determined that the space is so open to the atmosphere that a fixed gas system would be ineffective. No change was made to the rule proposed in the NPRM.

One comment requested that the requirement in paragraph (a)(2) to provide fixed extinguishing systems in a space containing internal combustion engine(s) of more than 50 horsepower be increased to 500 horsepower. The comment stated that a detection system should be required in lieu of a fixed extinguishing system for engines smaller than 500 horsepower. Another comment stated that no spaces should be exempt from having fixed systems, and recommended deleting paragraph (a)(2). The Coast Guard doesn't consider the engine horsepower to have a direct relationship to the risk of fire, and intended that, except for small installations, spaces containing internal combustion engines be protected by fixed extinguishing systems. No changes have been made to the rule proposed in the NPRM.

One comment proposed adding "or ship stores" after "cargo" in paragraph (a)(6) because some vessels carry combustible paper products and liquor as ships stores below the main deck. The Coast Guard agrees, and is adding the above wording in this SNPRM. In addition, a revision to indicate that such systems must use carbon dioxide is being added, since halon systems approved by the Coast Guard are not designed to extinguish Class A fires, such as wood, paper, and plastics. The Coast Guard realizes that fixed systems are not designed to extinguish fires in Class A hazards, but a carbon dioxide system will keep the fire knocked down until the vessel reaches port.

One comment pointed out that the limitation proposed in paragraph (b)(2) which limits the maximum gross volume of a space protected by pre-engineered halon systems to 1200 cubic feet conflicts with existing Coast Guard approvals of up to 1292 cubic feet for halon systems and 2000 cubic feet for pre-engineered carbon dioxide systems. The Coast Guard agrees, and has changed the limit in this SNPRM to 2000 cubic feet.

One comment suggested that the extinguishing medium be specified for the B-II fire extinguisher permitted by paragraph (b)(3) as a substitute for a fixed system protecting small spaces. The comment did not recommend a specific extinguishing medium. While a gas type extinguisher is often preferred for an enclosed space, the Coast Guard will leave the selection of medium for the B–II sized extinguishing system to the vessel operator.

Paragraph (d) of the NPRM required that grease extraction hoods be fitted over grills, broilers, and deep fat fryers on vessels carrying more than 400 passengers and on vessels with overnight accommodations for more than 49 passengers. One comment expressed support for requiring such systems. One comment requested that this section be revised to require a grease extraction hood for each galley, regardless of the size of the vessel. The Coast Guard has reconsidered the issue and agrees that the fire hazard posed by accumulated grease exists in any galley, and cannot be directly related to the number of passengers carried or vessel size. This section has been revised in this SNPRM to require a grease extraction hood wherever grills, broilers and deep fat fryers are installed, regardless of vessel size or of the number of passengers carried.

One comment recommended that paragraph (e) should state "Each overnight accommodation space" rather than "An overnight accommodation space." This SNPRM has been changed to clarify this requirement.

One comment requested that the break point in paragraph (f), which requires a smoke actuated fire detection system for vessels carrying more than 150 passengers, be raised to more than 400 passengers. Another comment suggested that these detection systems, and the ones required by paragraph (g) on vessels carrying more than 400 passengers, should be required only on vessels having overnight accommodations for more than 49 passengers. The Coast Guard has concluded that the amount and type of fire fighting equipment should be based on the level of protection provided by using noncombustible furnishings and/or structural fire protection. In this SNPRM, these latter areas have been reduced, and the Coast Guard does not want to reduce the level of required fire detection and fighting equipment to a level which would be unsafe. The Coast Guard also would like to bring the 400 passenger break point in this section of the NPRM in line with the break points proposed in this SNPRM. Therefore, the Coast Guard is proposing that any vessel having overnight accommodations for more than 49 passengers or carrying more than 150 passengers must have a smoke activated fire detection system. These requirements were moved to subchapter K in § 118.400 (c) and no longer appear in subchapter T in this SNPRM. Under the newly proposed break points, vessels having overnight accommodations for more than 150 passengers or carrying more than 600 passengers would be required to comply with the fire detection requirements of subchapter H.

Paragraph (h) (paragraph (f) in this SNPRM) should cite the requirements of § 76.25 of subchapter H for automatic sprinkler systems, and has been corrected in this SNPRM.

Paragraph (i) (paragraph (g) in this SNPRM) allows either a manual or automatic sprinkler system for vessels with partially enclosed vehicle spaces. Automatic sprinkler systems are not effective at detecting a fire in this situation because the heat is not adequately trapped to actuate a sprinkler head. The SNPRM has been revised to allow only manual sprinklers, with automatic sprinkler systems not being an option.

It was discovered that §§ 181.400(j) and 182.410(e) of the NPRM, which require vapor detection systems on some vessels, were redundant. Paragraph (j) has been removed and the requirement for vapor detection systems remains in § 182.410(c) of this SNPRM.

Section 181.410 Fixed Gas Fire Extinguishing Systems

One comment opposed fixed systems for boats less than 40 feet, and stated that a fire bucket is good enough. The Coast Guard disagrees since fires in engine compartments occur in boats of less than 40 feet as well as in larger vessels. Buckets with water are also intended for Class A fires (involving combustible solids such as wood, paper, and plastic) while the fixed gas systems are intended to extinguish fires of combustible liquids (Class B fires) which are the primary hazard in engine compartments.

One comment questioned the need for fixed systems on small vessels in view of the alleged high cost, and suggested a bottle of carbon dioxide and a manual

tripping device as a substitute for a small fixed system. The Coast Guard disagrees, since some fixed systems for small vessels appear no more expensive than the comment's proposed solution. More important, there is no way of knowing whether the comment's proposed fire fighting arrangement will result in fire extinguishment, while approved fixed systems have been determined to be effective through independent laboratory tests.

One comment suggested removing "custom engineered" from paragraph (a) as well as from the definitions in § 175.400, since it is a commonly understood phrase and does not add anything to the definition of fixed systems. The Coast Guard is retaining this term to differentiate them from pre-engineered systems. The two types of systems are designed and tested differently, and are usually intended for different applications (manned vs. unmanned spaces).

Two comments requested clarification of the requirement in paragraph (b)(2) that the release of the agent requires two distinct controls, and suggested that "two distinct operations" would be more appropriate wording. Since the purpose of the requirement is to prevent the accidental discharge of the system by someone operating the wrong control by mistake, the Coast Guard agrees, and has changed the wording in this SNPRM to "two distinct operations."

One comment suggested that the breakglass enclosure required in paragraph (b)(4) be replaced with "readily accessible enclosure." While controls must be accessible, the purpose of this requirement is to prevent the accidental discharge of the extinguishing agent. Therefore, the rule proposed in the NPRM is being retained.

Two comments asked clarification on whether the engine shutdown required by paragraph (b)(10) is mandatory in addition to the proposed mandatory shutdown of powered (mechanical) ventilation. The comments also suggested that systems be required to have only manual actuation of a fixed fire extinguishing system, supplemented by a detection system, to prevent a vessel from suddenly becoming "dead ship," which could be an even more hazardous situation. The NPRM proposed mandatory shutdown of any engine which draws intake air from the protected space before extinguishing agent is released. The purpose is to prevent an engine from depleting or reducing the concentration of the extinguishing agent, thus significantly reducing the extinguishing capability of the agent. Shutting down the engine(s) also has the benefit of stopping the flow of fuel or lubricating oil which is a likely source of the fire. The proposed requirement was apparently misinterpreted. Automatic actuation of a fixed fire extinguishing system is not required. Manual actuation is preferred, but automatic actuation would be allowed by § 181(c)(2) under special circumstances. But once the system is actuated, engines must be automatically shut down. This allows the vessel's master to retain control of when the vessel goes "dead ship," which prevents any dangerous "in extremis" situations. However, discretion should be exercised in delaying actuation of a fixed fire extinguishing system to prevent unnecessary damage or danger to passengers. No change was made to the rule proposed in the NPRM.

One comment stated that the hydrostatic test required by paragraph (d)(8)(ii) is not realistic since it can't be performed at most boat yards during most times of the year. The comment is misinterpreting the proposed requirement. What is meant here is that the piping should be tested at the internal pressure which the cylinder would reach if it were heated to its maximum allowable storage temperature of 130°. It is not the Coast Guard's intent that the piping itself be heated to 130° and then leak tested. The intent is to have the piping tested at the maximum working pressure, which will vary for carbon dioxide, Halon 1301 pressurized with nitrogen to 360 psi (at 70°), and Halon 1301 pressurized with nitrogen to 600 psi (at 70°).

One comment requested that paragraph (g)(2) be modified to require the quantity of halon recommended by NVIC 6–72, Change I (B.3). While a detailed calculation method is contained in the NVIC, the quantity of halon required by subparagraph (g)(2) is consistent. No change to the rule proposed in the NPRM is necessary.

Section 181.420 Pre-Engineered Halon Fixed Gas Systems

One comment stated that "pre-engineered" is not a useful term since the regulations in this section are necessary for all fixed systems. The Coast Guard disagrees because "pre-engineered" and "custom engineered" halon systems are different in design, are tested differently, and are used for protecting different spaces (small unmanned vs. large manned spaces). A separate section for pre-engineered systems emphasizes their difference from custom-engineered systems.

Another comment stated that pre-engineered systems should not be permitted to have automatic actuation because of possible piloting problems. The comment suggested instead the use of heat actuated detectors in combination with systems which only have manual actuation. The Coast Guard disagrees, since the use of automatic systems in unmanned spaces offers a distinct advantage in the early detection of the fire and automatic discharge of the extinguishing agent. Owners or operators who are concerned that automatic discharge of the extinguishing agent will render the vessel without power in a precarious situation should purchase a system with an optional engine restart mechanism.

One comment requested that a paragraph be added emphasizing that only one pre-engineered (automatic) system may be used to protect each space. The Coast Guard agrees. The installation of several small systems in place of one large system may cause the individual systems to discharge at different times, causing the concentration of halon to not reach high enough levels to extinguish the fire. Paragraph (c), stating that only one system may be installed in each space, has been added to this section of this SNPRM.

Section 181.425 Galley Hood Fire Extinguishing Systems

Another comment suggested removing the word "pre-engineered" from paragraph (b) since it is not necessary. The Coast Guard agrees, and has deleted it in this SNPRM.

Subpart E—Portable Fire Extinguishers

Section 181.500 Required Number, Type, and Location

One comment requested inclusion of UL extinguisher classifications in addition to the Coast Guard classification in the last column of Table 181.500(a). This is not necessary since the requirements in this section reference Coast Guard extinguisher classifications, not UL extinguisher classifications. All Coast Guard approved extinguishers carry the markings necessary to make extinguisher selections.

One comment suggested that the type of halon be specified. The Coast Guard does not agree. At the present time Halon 1211, 1301, or a mixture thereof, is acceptable. Portable extinguishers using a type of halon which is not accepted by the Coast Guard will not be Coast Guard approved or accepted by UL for marine use.

Two comments stated that Table 181.500(a) should be revised to increase the number of portable fire extinguishers required for a given size accommodation area. The comment

further stated that the table as proposed in the NPRM would result in numerous multideck vessels which would not need portable fire extinguishers in the accommodation areas. Existing subchapter T currently requires at least one extinguisher in each accommodation space, regardless of the size of the area. Even if a deck has small or no accommodation areas, it is unlikely that any deck would be without at least one extinguisher of some type. However the Coast Guard does agree that each accommodation space should have an A–II fire extinguisher, regardless of the size of the space. The Coast Guard has revised this table in this SNPRM.

Table 181.500(a) is also being corrected in this SNPRM to delete the halon extinguisher from the selection for accommodation spaces since the Coast Guard has not approved halon extinguishers for Class A fires.

One comment stated that foam fire extinguishers should not be allowed and should be deleted from Table 181.500(a) since they add nothing to the table. The comment is apparently referring to the old inverting type chemical foam extinguishers which are obsolete. However, mechanical foam (AFFF) extinguishers are being used shoreside, and can be useful in marine applications. While none are now approved for marine use, approvals of mechanical foam (AFFF) portable fire extinguishers suitable for use in a marine environment are expected in the future. The Coast Guard is retaining the category of portable foam extinguishers in this SNPRM in anticipation of approving portable AFFF fire extinguishers in the near future.

Another comment pointed out that the B–II extinguisher located outside the entrance to the machinery space, under paragraph (b) of the NPRM, is inadequate. The comment further concluded that the addition of a fixed system does not change this. The Coast Guard disagrees. Portable fire extinguishers are provided as a first defense against small, local, incipient fires. Portable fire extinguishers are not intended for fighting large, well developed fires. Fires which can not be extinguished immediately with the portable fire extinguisher must be fought with the fixed extinguishing system.

One comment recommended deleting the phrase "with a volume of more than 3000 cubic feet" from paragraph (b). Since no details were provided it is assumed that the comment believes that a B–II portable fire extinguisher should be provided to supplement the fixed system regardless of the size of the machinery space. The Coast Guard agrees and has deleted the volumetric reference in this SNPRM. Another related comment suggested deleting this paragraph and requiring a B–II extinguisher instead of the B–I required by Table 181.500(a) for machinery spaces. The Coast Guard considered both comments, and thinks that a single B–II located just outside a machinery space will be sufficient as a first defense. The B–II will provide more fire fighting capacity than a B–I, which will no longer be required. Paragraph (b) has been removed and Table 181.500(a) changed. Because most machinery spaces contain generators, electrical wiring and/or motors, the Coast Guard is proposing in this SNPRM to change the required extinguisher to a B–II,C–II instead of just a B–II. The effect of the proposed change would be to require a B–II,C–II extinguisher located outside the entrance of a machinery space.

One comment recommended that a galley should have an A–II extinguisher for normal Class A use. The Coast Guard agrees, and has changed the required B–II extinguisher to A–II, B–II in this SNPRM. This would require an extinguisher suitable for both combustible solids (wood, paper, and plastics) and flammable liquids. The selection of agent will be limited to dry chemical or foam (if available), since only the latter agents are suitable for both classes of fires.

Another comment recommended requiring B–II extinguishers in open or enclosed accommodation areas. The Coast Guard disagrees, since the primary danger is expected to be Class A fires caused by dropped cigarettes and matches, or electrical wiring, rather than flammable liquids. Owners or operators desiring an extinguisher which is also effective on flammable liquids may select a dry chemical extinguisher of a type suitable for use on Class A, B, and C fires (an ABC type extinguisher).

One comment suggested deleting "B–V" from paragraph (e) of the NPRM. This could result in many fire extinguishers being permanently attached to a bulkhead or deck. The purpose of this requirement is to prevent wheeled semiportable fire extinguishers from being uncontrollable in heavy seas. Since the same problem does not exists with portable fire extinguishers, the Coast Guard retained the proposed requirement in paragraph (d) of the SNPRM.

Section 181.520 Installation and Location

This section of the NPRM proposed to require portable fire extinguishers to be placed at a location satisfactory to the OCMI. One comment said that this section should address the visibility of fire extinguishers. The Coast Guard has included additional wording pertaining to this proposed requirement in this SNPRM.

Subpart F—Additional Equipment

Section 181.600 Fire Axe

One comment believed that fire axes should be stowed in locations only accessible to the crew and not to passengers. The Coast Guard disagrees. The requirement to locate the fire axe in or adjacent to the operating stations will assure that it is readily available for use and not difficult to locate, which it might be if stowed as recommended above. The rule proposed in the NPRM has not been changed.

Section 181.610 Fire Bucket

Although a number of comments stated that the requirement for fire buckets was ridiculous, others concurred with the requirement. Although buckets are very simple, they can be highly effective for extinguishing fires, especially on smaller vessels. On the M/V ACADIA a bucket brigade extinguished a rather significant fire in September 1989 with seawater. The requirement is retained in subchapter T, but is not proposed in Subchapter K because of the higher level of fire detecting and extinguishing equipment proposed to be installed on these vessels.

One comment wanted to know if fire buckets were required to meet any construction specifications. Although no specifications are cited, buckets are to be of suitable construction and acceptable to the OCMI.

Part 182—Machinery Installation

Subpart A—General Provisions

Section 182.130 Alternative Standards

For vessels of not more than 65 feet in length carrying not more than 12 passengers, alternative standards may be met. Among those alternative standards are various ABYC and 33 CFR subchapter S requirements. Two comments stated that there is no need for this regulation because there are not many vessels which carry this few passengers. Also, more resources will be needed to track the vessel from zone to zone to ensure it is never allowed to carry more than 12 passengers. The Coast Guard has adopted industry standards to as large an extent as possible to reduce the burden on industry. With the use of the MSIS system, keeping track of these vessels should not impose an undue administrative burden.

One comment stated that ABYC standards are not product standards but installation standards which contain few performance requirements. The Coast Guard notes that most of the scope sections of the ABYC standards state that the standards are intended as guides for design, construction, and installation of the applicable system. The Coast Guard considers the use of or reference to standards such as those promulgated by ABYC or NFPA valuable, and that such use or reference increases the safety and quality of systems and vessels. The Coast Guard actively participates in the development of ABYC and NFPA standards. ABYC standards are being used by ISO to develop international standards. Specific problems with the ABYC or their standards should be brought to the attention of the Coast Guard. If technical arguments can be provided, the Coast Guard may be successful in getting changes made to the ABYC standards.

Subpart B—Propulsion Machinery

Section 182.200 General

This section called for engines to have at least two means of being stopped, and an overspeed trip and or shutdown device for all diesel and gas turbine engine installations rated at 300 horsepower or more. Numerous comments stated that overspeed shutdowns are not necessary. They stated that it would be unsafe to have an engine shut down when operating near a bridge or in vessel traffic as maneuverability would be impaired. One additional comment stated that overspeed trips are unnecessary on four cycle engines. And another comment wanted to know at what RPM setting the overspeed shutdown would operate. The Coast Guard considers overspeed trips to be proven, inexpensive safety devices which are appropriate if the installation criteria of existing published industry standards are met. The requirement for an overspeed trip and/or shutdown device on diesel engines has been retained, and the Coast Guard is proposing to incorporate ABS standards which specify overspeed settings in this SNPRM. This proposed requirement, which is applicable to auxiliary machinery as well as propulsion machinery, has been moved to a new § 182.410(e) to show more clearly its application to all diesel engine installations. The provisions of § 182.220(c) cover the limited number of cases in which gas turbines are installed aboard small passenger vessels and the overspeed shutdown requirement for gas turbines has been left out of this section of this SNPRM.

Subpart D—Specific Machinery Requirements

Section 182.405 Fuel Restrictions

This section restricts the use of liquefied and non-liquefied flammable gases as fuel for internal combustion engines on all small passenger vessels. One comment strongly opposed the use of gasoline for all inboards. The comment stated that there are more benefits from prohibiting the use of gasoline as an inboard propulsion fuel than from other costly fire safety rules proposed. The Coast Guard's position is that there are valid environmental and energy conservation reasons for the exploration of alternative main machinery fuels (including gasoline) and does not wish to prohibit their use. It is not intended to imply that unsafe fuels are encouraged, but it is important to recognize that alternative fuels will be proposed and their application must be anticipated. Statistics indicate that gasoline is more dangerous than diesel fuel. For this reason, additional precautions must be adhered to when gasoline systems are installed. The rule proposed in the NPRM has been revised in this SNPRM to allow the use of other alternative fuels on a case-by-case basis. The Coast Guard solicits additional input relative to alternative fuel safety, design, and applications.

Presently there are no vessels carrying more than 150 passengers which use gasoline as a propulsion fuel, and there are only 4 such vessels which carry more than 100 passengers (105, 119, 120, and 150 passengers). Generally, vessels which would be regulated by proposed subchapter K would not use gasoline as a fuel for propulsion or other machinery, except for outboard motors on small boats. Therefore, references to items such as gasoline, gasoline vapors, and carburetors have been removed from proposed subchapter K in this SNPRM, except for § 119.458 which contains requirements for portable fuel systems such as outboard motors. Section 119.405 would allow the use of alternative fuels, including gasoline and compressed gas, on a case-by-case basis.

Section 182.410 General Requirements

This section proposed general requirements for gauges, rotating machinery guards, enclosed machinery space gasoline engine requirements, and compressed air starting for diesel engines. Several requirements in paragraphs (a), (b), (d), and (f), which cover specified machinery design or complicated the regulations, have been removed in this SNPRM.

Two comments indicated that, as a result of casualties, there is a need for paragraph (c) in the NPRM to require both visible and audible alarms for exhaust cooling water flow failure. The Coast Guard has concluded that a suitable visible or audible warning device is adequate and has included this requirement in § 182.425 (b)(5).

Another comment stated that outboards should be exempt from paragraph (c). The Coast Guard agrees this requirement is not intended to apply to outboard engines and has clarified this in this SNPRM.

One comment stated that the vapor detectors required by paragraph (e), (now paragraph (c) in the SNPRM) are complex, vulnerable to damage and corrosion, and some are useless at high or low temperatures. The Coast Guard has concluded that reliable marine combustible gas indicators are necessary to protect against the hazards of gasoline and other fuels with low flashpoints. Combustible gas indicators have been effective in atmospheres containing gasoline fumes and compressed natural gas. The indicators must be strictly used and maintained as recommended by the manufacturer to ensure reliability.

One comment proposed that paragraph (e) in the NPRM should require any space containing gasoline fuel tanks, as well as gasoline machinery, to have vapor detectors due to possible valve and gage leaks. Casualty statistics do not support the need for this measure. Although the Coast Guard agrees that valve and gage leaks are possible, the likelihood of fuel leaks is much greater in a machinery space. Most separate fuel tank compartments will have much fewer, if any, ignition sources and the risk of explosion is much less. Therefore, the Coast Guard has limited requirements for vapor detectors to machinery spaces in this SNPRM.

Another comment stated that vapor detectors are not necessary on open boats whose decks are open at sides for ventilation, since the operator can detect the gasoline odors. Reliance on the operator's ability to smell gasoline odors is not considered to be an adequate substitute for a vapor detector.

One comment stated that all hoses should be double clamped where practicable. Double clamping for hoses is found in several regulation cites, specifically: § 182.422(e), keel coolers; § 182.445(g), fuel fill and sounding pipes; and § 182.455(a)(2)(viii), fuel piping. The Coast Guard has decided to have a general requirement for double clamping where use of clamped hoses is allowed. The double clamping of hoses is included as a general requirement in new paragraph (d) [K § 119.410(c)] in this SNPRM.

Section 182.415 Carburetors

No comments were received on this section. However, in another regulatory project entitled "Incorporation and Adoption of Industry Standards" [CGD 88–032], published as a final rule in the **Federal Register** on 29 July 1991 (56 FR 35817), the Coast Guard developed new standards for backfire flame arrestors. These standards have been incorporated into this SNPRM. As a result, the two additional industry standards cited in that rule have been included for incorporation by reference under proposed § 175.600 of this SNPRM. These standards do not apply to outboard engines, and proposed § 182.415(b) has been revised accordingly.

Section 182.420 Engine Cooling

This section proposed specific requirements for engine cooling systems for all inboard engine installations. In the NPRM, reference was made to ABYC standards P–4 and P–10 for vessels of not more than 65 feet in length carrying not more than 12 passengers. ABYC P–10 is an outdated standard. ABYC P–4 has been updated and the appropriate requirements concerning air-cooled engines were incorporated into it. The SNPRM reflects this update.

One comment pointed out that ABYC P–4 does not limit maximum temperatures of exposed exhaust surfaces or require ignition protection of starter, distributor, or other components, and recommended that, for all gasoline installations, all electrical components and the engine should be ignition protected as determined using UL test method 1500. The Coast Guard realizes that ABYC P–4 does not specifically address ignition protection of electrical components of engines. However, ABYC P–4 references ABYC E–9 which requires potential sources of ignition located in gasoline machinery or fuel tank spaces to be ignition protected. The Coast Guard does not agree that the engines themselves need to be ignition protected and considers the requirements contained in ABYC P–4 and §§ 182.410 and 183.530 [K § 120.530] to be sufficient.

Section 182.422 Keel Cooler Installations

This section contained requirements for keel coolers similar to those found in 46 CFR 56.50–96 of subchapter F. Two comments stated that isolation valves are not necessary and two others stated that internal shutoff valves may cause more problems than they solve. The Coast Guard disagrees. Isolation valves must be installed to ensure system integrity. The Coast Guard is not aware of any problems caused by properly installed and maintained internal shutoff valves in keel cooler installations. These, like other internal shutoff valves (e.g., sea chest valves) are necessary to prevent uncontrolled flooding in the event of structural failure.

One comment stated that double hose clamps should be required by paragraph (e)(3) in all cases, because it is difficult to determine visually whether a pipe has beaded ends. Another comment recommended that all pipe ends be required to be beaded because it gives superior sealing results. The Coast Guard agrees a beaded pipe provides better sealing performance than straight pipe. Therefore, only single clamping is required on a beaded pipe. However, it is difficult to determine if a pipe is beaded when an existing installation is inspected. If the marine inspector is not convinced that the pipe is beaded, double clamping will be required where practicable. Double clamping of hoses is also discussed under § 182.410 of this preamble.

Several comments stated that the requirements for keel coolers were too specific and too complex, citing requirements such as required edge preparation, cooler structure, and fairing requirements. The Coast Guard concurs and has greatly simplified these requirements in this SNPRM. In addition the requirements for keel coolers in § 182.423 have been combined with this section because they are now so similar.

Section 182.423 Grid Cooler Installations

This section, which has been combined with § 182.422 in this SNPRM, proposed requirements for grid cooler hull penetrations, protective measures, and shutoff (isolation) valves. One comment stated that grid cooler hull penetrations through cofferdams or seachests, required by paragraph (a), eliminated the need for the shutoff valves required by (c). The Coast Guard disagrees. Longstanding policy for grid coolers assumes that the force required to damage a non-integral keel cooler would likely be sufficient to indent a vessel's hull and place severe stresses on inboard piping. Such a casualty could conceivably lead to a concurrent piping system failure. Isolation valves must be installed to ensure system integrity.

One comment stated that internal shutoff valves may cause more problems than they solve. The Coast Guard disagrees. Isolation valves must be installed to ensure system integrity. The Coast Guard is not aware of any problems caused by properly installed and maintained internal shutoff valves in keel or grid cooler installations. These, like other internal shutoff valves (e.g., sea chest valves), are necessary to prevent uncontrolled flooding in the event of structural failure.

Another comment stated that the phrase "as close to the hull as practicable" should be added to paragraph (c). The Coast Guard concurs and the addition has been made in § 182.422 (b) of this SNPRM to clarify the intended location of the shutoff valves.

Several comments stated that the requirements for grid coolers were too specific and too complex, citing requirements such as required edge preparation, cooler structure, and fairing requirements. The Coast Guard concurs and has greatly simplified these requirements in this SNPRM.

Section 182.425 Engine Exhaust Cooling

This section contains requirements for horizontal and vertical exhaust systems, and exhaust cooling water systems. It references ABYC Standard P–1 as an alternative. One comment called for more stringent standards for dry exhaust systems, as per NTSB Recommendation M–85–083. The Coast Guard disagrees. NTSB recommendation 85–083 calls for dry exhaust stacks to be insulated with removable insulation pads as a result of a fire onboard M/V FANTASY ISLANDER. Other factors contributed to the fire on that vessel. Overall, satisfactory performance has been achieved from properly installed and maintained exhaust insulation.

One comment stated that cooling water for an exhaust pipe is sometimes injected after a dry muffler, in which cases the exhaust will be lagged as necessary. The Coast Guard agrees. However, § 182.425(b)(3) adequately covers this concern.

One comment stated that paragraph (b)(5) should specifically define failure in terms of partial or full water flow loss, or temperature increase. The regulation is written such that the designer will consider and anticipate the additional concern associated with an exhaust cooling system which is separate from the engine cooling system. As with all designs, it is incumbent on the designer to ensure that his particular system is adequately safeguarded. However, the regulation in this paragraph and in § 182.410(c) has been reworded in this SNPRM for clarification.

One comment expressed concerns that ABYC P–1, referenced in paragraph

(c), allows too many questionable materials and that the loss of cooling water will damage them. It recommended the use of UL test method 1129 to ensure higher temperatures can be withstood. Additionally, the comment recommended using UL ignition protection test method 1500 to check if exposed surfaces reach 200°F. The Coast Guard disagrees. ABYC Standard P–1 is the primary standard referenced in 46 CFR Subchapter F for many years. Acceptable service has resulted from complying with this standard. To minimize the burden on the industry while maintaining safety, meeting ABYC Standard P–1 is considered to be satisfactory.

Section 182.430 Engine Exhaust Pipe Installation

Requirements for installation of horizontal and vertical exhaust systems, insulation, and exhaust cooling water systems are contained in this section, which references ABYC Standard P–1 as an alternative. One comment stated that simply requiring schedule 80 piping requirement in paragraph (c) (paragraph (d) in the SNPRM) is not good because materials such as PVC might be used, and recommended that an ABYC or NFPA requirement be referenced instead. The Coast Guard agrees, and the second sentence of the paragraph directed the reader to the materials listed in ABYC Standard P–1. This standard is referred to in § 182.45 of the SNPRM. PVC pipe is not listed, but fiberglass materials which have been certified for marine use are acceptable for the exhaust piping in wet exhaust systems for both gasoline and diesel engines.

Two comments stated that the schedule 80 requirement is too strict because most problems occur at the point of water injection, and schedule 40 should be allowed at other points. The Coast Guard disagrees. The most highly recommended materials for use in exhaust systems are all corrosion resistant. Limited life can be expected from galvanized steel and iron piping, which are subject to corrosion at high rates. Therefore, the requirement for such materials to be schedule 80 is not unreasonable.

Concerning paragraph (d), two comments stated that any hose should be "certified" for exhaust use. Materials required to be "certified" for marine use are subject to manufacturer self-certification. The Coast Guard does not think it is necessary to require this "certification" for exhaust hose. Recreational boats are the only products presently required to be "certified" by their manufacturers.

Two comments stated that clamped hoses should be double clamped. The Coast Guard agrees. This statement is consistent with ABYC Project P–1, which requires double clamping, and has been incorporated by reference in these regulations. As discussed under § 182.410, the NPRM has been revised by requiring double clamping of any flexible nonmetallic hose, when practicable. There will be few or no occasions when double clamps should not be used in exhaust systems.

Four comments stated that water cooled aluminum exhaust pipe should be allowed to penetrate an aluminum bulkhead on an aluminum vessel. The Coast Guard disagrees. ABYC Standard P–1 is the recognized standard for exhaust systems for propulsion and auxiliary machinery. This standard does not recognize aluminum as an acceptable material for either wet or dry exhaust systems for diesel or gasoline engine installations. Aluminum has a relatively low melting point and will distort when subjected to high temperatures resulting from engine exhaust.

Three comments stated that the spark arresters required by paragraph (g) are not necessary on steel or aluminum vessels or for diesel engine installations. The Coast Guard agrees they are not necessary on diesel engines, and has deleted the requirement in this SNPRM. Section § 182.415 requires backfire flame control on gasoline engines, except outboard motors, to minimize the chance of a fire.

One comment requested that paragraph (i) be changed to more clearly require adequate access for inspection. The Coast Guard concurs with the intent of this comment and has reworded the regulation in this SNPRM to clarify that access should be adequate to allow complete inspection of the exhaust system.

One comment recommended adding a subparagraph prohibiting exhaust piping from passing through or within 3 feet of fuel tanks. Installations are occasionally attempted with exhaust pipes touching, or passing through tunnels in, fuel tanks. The Coast Guard agrees that there is danger in allowing hot exhaust pipes near fuel tanks. Section 177.400(a) states that the general construction of the vessel must be such as to minimize fire hazards and § 182.430(i) states that arrangements must be made to provide access to the exhaust piping throughout its length. Exhaust piping should not touch fuel tanks or be run through fuel tanks in pipe tunnels. The regulations as written are adequate to decrease the incidence of unsafe arrangements while allowing the designer flexibility in design and arrangement of vessel systems.

Section 182.435 Integral Fuel Tanks

Requirements for gasoline and diesel integral fuel tanks are proposed in this section. One comment questioned why independent tanks are prohibited from having access openings in sides and ends of tanks and integral tanks are not. This comment stated there was little difference between independent and integral tanks, and that the regulations concerning access openings should be the same. The prohibitions against openings in sides and ends of independent fuel tanks in § 182.440 are consistent with other established standards such as UL 1102. Due to the arrangement of some integral tanks, manhole openings may not always be practicably located on the top of the tanks. The rule proposed in the NPRM is considered adequate.

Section 182.440 Independent Fuel Tanks

This section proposed requirements for independent fuel tanks which address materials, construction, location, installation, tests, and alternative procedures. One comment stated that the design details in paragraph (a) could be omitted if an overpressure test was required. The Coast Guard disagrees because a hydrostatic test cannot be used in lieu of design requirements which address things such as fire protection, mechanical damage, and free surface effects. The tests required by § 182.440(c) are intended to ensure adequate construction.

One comment stated that a section discussing resins which are acceptable when wrapping steel or aluminum tanks in FRP should be added. The Coast Guard disagrees because this type of installation is not typical aboard inspected vessels. ABYC Projects H–24 and H–33 both include guidance for metallic and nonmetallic tanks that are enclosed in plastic. This guidance is considered acceptable for vessels of not more than 65 feet in length carrying not more than 12 passengers. Wrapping steel or aluminum tanks in FRP for use on larger vessels must be approved by Commandant as stated in § 182.440(a)(2) of the NPRM.

One comment stated that stainless steel should be specifically listed as a non-approved material. The Coast Guard agrees. Footnote 4 to Table § 182.440(a)(1) of the NPRM stated that stainless steel is not accepted under the heading of "steel". This requirement has been clarified in this SNPRM by adding a separate footnote to address stainless

steel. However, materials other than those listed in Table 182.440(a)(1), including stainless steel, will be considered by Commandant under § 182.440(a)(3) of this SNPRM.

One comment stated there seems to be an inconsistency in the NPRM, because footnote 4 of the Table prohibits stainless fuel tanks but paragraph (d) makes an exception by accepting ABYC which allows stainless steel cylindrical tanks less than 150 gallons. Alternative procedures in paragraph (d) allow tanks to be built in accordance with ABYC Projects H–24 or H–33, on vessels of not more than 65 feet in length carrying not more than 12 passengers. Both ABYC standards allow 316L stainless steel to be used in construction of cylindrical tanks of less than 20 gallons with domed heads. Accelerated localized corrosion is a major shortcoming of stainless steel in an environment subjected to contact with salt water. Paragraph (d) and the footnotes to Table 182.440(a)(1) have been modified in this SNPRM to reflect the current policy that stainless steel and other materials not listed in the table can only be used with the Commandant's approval.

One comment strongly supported installation of metallic fuel tanks in a manner which will permit examination of the entire top of the tank and the fittings allowed by paragraph (a)(4) of the NPRM, since the tank is subject to corrosion. The Coast Guard agrees that the top of the tank is subject to corrosion which necessitates close inspection. Section 182.440(b)(2) of the NPRM proposed that fuel tanks and fittings be installed to permit examination and is unchanged in this SNPRM.

One comment observed the inconsistency in the NPRM that sight glasses are not permitted by paragraph (a)(4), but paragraph (a)(6) allows them for diesel tanks. The prohibition against sight glasses in gasoline fuel tanks is consistent with subchapter F (46 CFR 58.50). To make paragraphs (a)(4) and (a)(6) of the NPRM consistent, paragraph (a)(4) (paragraph (a)(5) of this SNPRM) has been modified to allow tubular gauge glasses for diesel systems. Future consideration will be given to making 46 CFR 182.440, 46 CFR 58.50, and the ABYC standards consistent.

Two comments stated that tank cleaning openings allowed by paragraph (a)(4)(i) of the NPRM should be required to be valved to prevent accidental discharges of fuel. Allowing an opening for a threaded plug or cap is consistent with subchapter F (46 CFR 58.50) requirements. To require a valved arrangement for a small passenger vessel would exceed the requirement for vessels subject to 46 CFR subchapter F. Alternative compliance with ABYC Projects H–24 or H–33 provides allowances for drain valves on fuel tanks. Provided that it is adequately guarded against accidental opening, the valved fuel drain might be a better arrangement. Removal of this paragraph will be considered in the next revision of subchapter F. Consideration will be given to making 46 CFR 182.440, 46 CFR 58.50, and the ABYC standards consistent.

Referencing paragraph (a)(6), one comment recommended that try cocks not be allowed on any tank as they are too easily left in the open position. The Coast Guard agrees. Try cocks may be accidentally left in the open position and may even vibrate open if not properly maintained. Try cocks in fuel systems are not a good practice because fuel invariably flows to the bilges or on other equipment during soundings. The SNPRM has been revised in paragraph (a)(7) to delete the reference to try cocks.

One comment stated that the requirements for vertical baffle plates in paragraph (a)(7) of the NPRM ((a)(8) in the SNPRM) is irrational and cumbersome, and increases maintenance and difficulty in construction. This comment thought paragraph (a)(9) of the NPRM sufficient to avoid structural damage or instability. Another comment stated that no similar requirements exist for integral tanks and that fuel sloshing frequency will rarely reach the natural frequency of the tank for a 30 inch dimension. Another comment disagreed, stating that structural integrity problems and dynamic instability will occur if baffle spacing exceeds 30 inches, and that apparent cost savings do not justify the work and calculations to prove, under paragraph (a)(9) of the NPRM, that certain baffles are not required. The Coast Guard sees no reason to limit the flexibility allowed by the regulations as written. The regulations permit the flexibility of following the regulatory requirement for constructing the tank with baffles, or using design calculations to show equivalent tank design and construction.

One comment stated paragraph (a)(8) of the NPRM should require baffles to be continuously welded or specify a welding sequence, because the welds pull loose when spot welded. The baffle plate requirement is consistent with Subchapter F requirements (46 CFR 58.50) and ABYC standards. No changes were made to the rule proposed in the NPRM.

Two comments requested identification of the types of calculations required by paragraph (a)(9) of the NPRM to show the adequacy of tanks without baffles. The Coast Guard disagrees. There are many methods ranging from finite elements to basic handbook formulae which incorporate a wide range of assumptions. The designer must substantiate the method used to the OCMI who may, in turn, request technical assistance from the Marine Safety Center as necessary.

One comment stated that FRP standards should be included in Table 182.440(a)(1). The Coast Guard agrees. Fiberglass has been added to the Table, with specific fire retardancy and construction requirements given in new paragraph (a)(2). Paragraphs (a)(3) through (a)(8) have been renumbered. The two ASTM test standards cited in the new paragraph (a)(2) have been included for incorporation by reference under proposed § 175.600 of this SNPRM. Paragraphs (a)(5), (a)(6), (a)(7), (a)(8) and (a)(9) of the NPRM have been revised in this SNPRM to clarify that certain of the proposed requirements are applicable only to metal tanks. In particular, baffle plates are not considered necessary in fiberglass tanks because the tanks must pass the sloshing and impulse loading tests of UL 1102, which are designed to test the structural adequacy of the tank. UL 1102 is widely accepted as a standard for fiberglass tanks. Baffle plates may be installed in fiberglass tanks if the owner or builder desires, as allowed by proposed § 182.440(a)(2)(v) of this SNPRM. In the past, and as proposed in this SNPRM, regulatory design standards have been substituted for performance standards such as UL 1102. Persons wishing to do so may propose, under § 175.540, that the design standards for fiberglass tanks in UL 1102 be accepted as equivalent to the requirements in this section for the construction of metal tanks. These equivalencies would be handled on a case-by-case basis by the Marine Technical and Hazardous Materials Division at Coast Guard Headquarters.

One comment stated that ABYC standards should not be allowed as alternatives in paragraph (d) because they allow rotationally molded plastic tanks on which ABYC has not yet completed the 2½ minute burn test. The Coast Guard's position is that nonmetallic tanks can be used, but agrees that materials used in the construction of tanks must be regulated. Paragraph (d) has been modified in this SNPRM to reflect current policy on materials not listed in Table 182.440(a)(1).

Section 182.445 Fill and Sounding Pipes for Fuel Tanks

This section is similar to existing regulations, but has the significant difference of allowing alternative compliance with ABYC standards and 33 CFR part 183 for vessels of not more than 65 feet in length carrying not more than 12 passengers. One comment stated that flexible hose allowed by paragraph (g) of this section and § 182.450(g) should be labeled A–1 if it can trap fuel and B–1 otherwise. The regulations in 33 CFR part 183 adequately address the use of USCG Type A–1 and B–1 hose. The Coast Guard does not intend for this requirement to limit hose selection to Type A–1 and B–1 hoses. Many other hoses meeting the fuel requirements in SAE J1942 may be used if Type A1 or B1 hose is not adequate for the intended application.

One comment stated that sounding pipes on the sides of a tank are impractical and inaccurate. The Coast Guard agrees that sounding pipes on sides of tanks may be impractical. However, where it is necessary to have sounding pipes on the sides of the tanks, these regulations do not prohibit such an arrangement.

Section 182.450 Vent Pipes for Fuel Tanks

This section is similar to existing regulations, but has the significant difference of allowing alternative compliance with ABYC standards and 33 CFR part 183 for vessels of not more than 65 feet in length carrying not more than 12 passengers. One comment stated that paragraph (f) should be deleted and that paragraph (e) is adequate. The comment stated that ABYC and 33 CFR do not adequately address flame screens. The Coast Guard disagrees. ABYC and 33 CFR require flame arresters, which accomplish the same thing as flame screens, and these standards are considered adequate for vessels of not more than 65 feet in length carrying not more than 12 passengers.

Section 182.455 Fuel Piping

This section is similar to existing regulations, but has the significant difference of allowing alternative compliance with ABYC standards and 33 CFR part 183 for vessels of not more than 65 feet in length carrying not more than 12 passengers. Further, it has been reorganized by referencing a new § 182.720(e) specifically dealing with the use of flexible nonmetallic hose installations, and by moving paragraph (a)(2) to that new section.

There were no comments questioning the 30 inch hose length limitation in paragraph (a)(2)(i). The Coast Guard periodically receives inquiries concerning the use of substantially longer lengths of flexible hose as fuel line. Reasons for a 30 inch limitation are that hard piped fuel systems result in a somewhat higher level of safety and reliability, and, traditionally, are good engineering practice. The Coast Guard's position is that hoses are reliable when properly maintained and installed, and provide excellent service in areas of high vibration and difficult access, and has allowed their use for runs longer than 30 inches in the past. In this SNPRM, the 30 inch limitation has been removed, but the Coast Guard is soliciting comments concerning the reliability and safety of using flexible hose in place of fuel piping or tubing. Although not proposed in this SNPRM, the Coast Guard is considering a mandatory replacement interval for flexible nonmetallic hose, and solicits comments from hose manufacturers and users on recommended replacement intervals.

One comment recommended adding a section to paragraph (a)(2) restricting the use of flexible hose in undesirable locations, recommending, "(ii) flexible hose may only be used where necessary for vibration absorption such as where connecting up to running machinery." The requirement proposed in the NPRM would prohibit flexible hose from being installed in undesirable locations. Specifically, "flexible hose runs must be visible, easily accessible, and must not penetrate watertight bulkheads." The Coast Guard sees no reason to make a change.

One comment stated that allowing the use of 5 psi A and B hose in subparagraph (a)(2)(vi) would provide relief for both inspectors and owners. Another comment stated that there should not even be this much of a relaxation of this requirement. The Coast Guard agrees that this would be a relaxation to owners and inspectors and disagrees that the regulation is too relaxed. Careful reading of the regulation shows that the operating pressure is limited to 5 psi and that the limitations of 33 CFR must be followed.

Paragraph (a)(2) has been moved to a new § 182.720(e)(3) in this SNPRM so that, as much as is possible, nonmetallic flexible hose requirements are in one location with requirements for other nonmetallic piping materials.

One comment stated that the phrase "The shutoff valve at the tank must be operable from outside the tank compartment" in paragraph (b)(4) raises the question of the acceptability of reaching through an access opening or door into the compartment, and if so, whether the valve should be shielded from flames. The Coast Guard's position is that if the remote shutoff valve is located in the engine room, then it should be remotely operable from outside the space in order to shut off fuel in case of an emergency. This requirement has been reworded in this SNPRM to be more like the wording in § 56.50–60(d)(1) of subchapter F, which more clearly shows the intent that the fuel shutoff valve must be operable from outside the compartment in which the valve is located. Additional requirements have been added to ensure that, if someone has to reach into the engine room to operate the remote fuel shutoff valve, the valve is not located more than 12 inches away from the deck or bulkhead and is shielded from flames by the same material the hull is constructed of, or some noncombustible material. If the remote shutoff valve is located in any other compartment but the engine room, these additional requirements would not apply.

Section 182.458 Portable Fuel Systems

The regulation proposed in the NPRM is new and adopts ABYC H–25 for outboard engine portable fuel system installations. One comment stated that portable tanks should have a label or marking showing that it was constructed to the ABYC standard. The Coast Guard agrees. However, neither ABYC H–25 nor UL 1102 requires marking that would indicate compliance with the standard. UL 1102 does require that the tanks be marked indicating that they are tested under 33 CFR 183.580, which is the Coast Guard requirement for testing of fuel tanks permanently installed on recreational boats. In future modifications to ABYC H–25, the Coast Guard will propose markings which show compliance.

Section 182.460 Ventilation of Spaces Containing Gasoline Machinery or Fuel Tanks

This section is similar to existing regulations, but has the significant difference of allowing alternative compliance with ABYC standards and 33 CFR part 183 for vessels of not more than 65 feet in length carrying not more than 12 passengers. One comment stated that the terms "enclosed spaces" and "partially enclosed spaces" used in paragraphs (a)(1) and (a)(2) should be defined. Also, "open spaces" should be defined to have the same meaning as in 33 CFR part 183. The Coast Guard agrees in principal. "Open to the atmosphere" is defined in 33 CFR 183.605 and ABYC Project H–2, and can be repeated in this regulation. Likewise, "enclosed spaces" and "partially

enclosed spaces" may be unnecessarily vague and open to too much interpretation. In proposed § 175.400 of this SNPRM, the Coast Guard has included definitions to clarify these three terms. The proposed definitions are: "open to the atmosphere" means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume; "enclosed space" means a compartment that is not exposed to the atmosphere when all access and ventilation closures are secured; and "partially enclosed space" means a compartment that is neither open to the atmosphere nor an enclosed space. However, defining these terms will affect the following sections which also use these terms: § 177.400(g) which limits paint thickness in enclosed and partially enclosed spaces; § 177.500(q) which concerns means of escape from enclosed spaces; § 177.600 which affects ventilation of enclosed and partially enclosed spaces; § 181.400(b)(4) which uses the phrase "so open to the atmosphere" in referring to spaces which require fixed gas fire extinguishing systems; and §§ 181.400(h) and (i) which use the terms "enclosed" and "partially enclosed" in referring to vehicle spaces which require sprinkler systems. These definitions shouldn't impact the other requirements. However, the Coast Guard specifically solicits comments concerning these proposed definitions.

One comment stated that there are major problems with ABYC H–2, which is allowed by paragraph (m) as an alternative for vessels of not more than 65 feet in length carrying not more than 12 passengers. The comment recommended that at least one power driven exhaust blower should be installed for each piece of gasoline powered machinery as well as for each gasoline storage place. The Coast Guard disagrees. ABYC Project H–2 is a standard similar to 33 CFR part 183, subpart K and has proven to be adequate. Although ABYC Project H–2 does not require a specific number of blowers to be installed, it does provide guidance on the required air flow in cubic feet per minute.

Section 182.465 Ventilation of Spaces Containing Diesel Machinery

This section is similar to existing regulations, but has the significant difference of allowing alternative compliance with ABYC standards and 33 CFR part 183 for vessels of not more than 65 feet in length carrying not more than 12 passengers. One comment stated that the requirement, in paragraph (c), to extend the duct to the bottom of the diesel engine room is unnecessary if the forced air system can provide the necessary circulation. The Coast Guard disagrees. The reason for the duct extending to the bottom of the engine room is to ensure that diesel fumes, which are denser than air and tend to accumulate in the bilges, are removed by the ventilation system. No changes have been made to the rule proposed in the NPRM.

One comment stated that the requirement, in paragraph (e), for the area of the cowl opening to be twice the area of the vent duct is impractical. Requiring the cowl area to be not less than the required vent area should be sufficient. This part of the regulation is consistent with the analogous regulation in § 182.460 for spaces containing gasoline machinery. This cowl sizing requirement is intended to minimize airflow losses due to restrictions and turbulence in the intake. An even larger cowl opening is necessary to compensate for installed wire screen.

Subpart E—Bilge and Ballast Systems

Section 182.500 General

This section expands upon current regulations by addressing larger small passenger vessels, and allows ABYC Project H–22 as an alternative for vessels of not more than 65 feet in length carrying not more than 12 passengers. One comment stated that the phrase "small buoyancy compartment" in paragraph (a) should be defined. In general, a small buoyancy compartment is a "small" void space which, if flooded, does not impair the stability of the vessel. Some OCMIs might require the submission of stability calculations to prove that the stability of the vessel is not impaired.

One comment stated that paragraph (b) is grossly inadequate, and stated as an example that ABYC does not specify where pumps should be located. The Coast Guard disagrees. ABYC Project H–22 is not intended for small passenger vessels of more than 65 feet in length or with large passenger capacities, but this regulation is written to allow this standard to be used as an alternative only for vessels of not more than 65 feet in length carrying not more than 12 passengers. ABYC H–22 is considered adequate for this application

Another comment stated that paragraph (b) would allow the use of submersible pumps on vessels of not more than 65 feet in length carrying not more than 12 passengers, which may be unsafe because it puts the entire load of dewatering on the vessel's battery system. ABYC Project H–22 addresses electrically operated bilge pumps. As long as the system is installed in accordance with the standard, it should be safe. The boat's electrical system, including size and number of batteries and alternators, must be adequately designed and proper maintenance must be conducted to account for the load of the electrically operated pumps.

Proposed paragraph (c), which contained the requirement for vessels proposed in this SNPRM to be regulated by subchapter K to have bilge pumps and piping in accordance with subchapter F, has been deleted in this SNPRM. This requirement has been incorporated into K §§ 119.510 and 119.520.

Section 182.510 Bilge Piping System

This section contains requirements for bilge piping systems which are similar to previous regulations. One comment agreed that the "Rule" type pumps (Rule is a manufacturer of small submersible electric bilge pumps) allowed by paragraph (c) were acceptable but should only be authorized for vessels of not more than 65 feet in length carrying not more than 49 passengers and each pump should have the minimum capacity specified in the table. The comment suggested that this could be corrected by referencing § 182.520(e). The Coast Guard agrees, and finds the regulations proposed in the NPRM are adequate in fulfilling this need. In selecting a "Rule" pump it is necessary to refer to § 182.520(e).

Section 182.520 Bilge Pumps

This section is essentially the same as existing regulations, but also incorporates current policy concerning power pumps as an alternative to portable and fixed hand pumps, greater acceptance of electric submersible bilge pumps, and bilge pump requirements for catamarans. The wide range of comments illustrates the philosophical differences regarding the function of the bilge system. Regardless of individual biases on the issue, current Coast Guard policy is that the bilge system is not intended to serve as the primary deterrent against the ingress of seawater due to flooding but serves to dewater accumulation in spaces which results from normal vessel operations including sweating, packing and seal leakage, and other normal leakage from properly operating equipment and machinery. The bilge system also serves to dewater after a casualty is corrected. Note that "ordinary leakage" is specifically addressed in § 182.510(a). The Coast Guard opinions below reflect this line of thinking.

One comment expressed the belief that this section was grossly inadequate,

and recommended large capacity auto/manual electric pumps in each compartment. The comment indicated that undetected flooding has caused the greatest loss of certificated vessels, and that engine driven pumps are unacceptable. The Coast Guard disagrees. Proposed § 182.530 requires bilge level alarms on vessels of at least 26 feet in length, which will help solve the problem of undetected flooding. All vessels greater than 26 feet in length must also be equipped with fixed power bilge pumps in case of flooding.

One comment recommended that Table 182.520(a) require two 25 gpm fixed power bilge pumps on ferries and vessels carrying more than 49 passengers since the failure of a single pump would be catastrophic. The Coast Guard disagrees. To require ferries carrying more than 49 passengers and not more than 65 feet in length to have more than one bilge pump would be more restrictive than 46 CFR subchapter F, which would require only one power bilge pump. This change is not considered necessary.

Three comments stated that emergency hand pumps required by paragraph (b) are useless and unnecessary. The Coast Guard disagrees with these comments. The comments went on to state that the size of the vessel should be considered in allowing hand pumps. The size of the vessel is considered since hand pumps are required only on smaller vessels. However, portable hand pumps are not as effective as power bilge pumps. As stated in the preamble of the NPRM, power pumps are allowed as alternatives when portable and fixed hand pumps are required. The rule proposed in the NPRM has been revised in this SNPRM to specifically allow power pumps as alternatives when portable and fixed hand pumps are required.

One comment stated that the criteria in paragraph (b)(2) are not sufficient for minimum suction and discharge hose lengths. The Coast Guard disagrees. The regulation states that the suction and discharge hoses for portable hand bilge pumps are to be "capable of reaching the bilges of each watertight compartment." The suction hoses should be long enough to draw water out of each bilge and the discharge hose should be long enough to safely discharge bilge water overboard. Portable hand pumps often discharge into a bucket for subsequent disposal of bilge water. This may not be accepted by the OCMI for larger vessels. The regulation as written is considered adequate.

One comment stated that paragraph (e), allowing the use of submersible pumps on vessels of not more than 65 feet in length carrying not more than 49 passengers, may be unsafe because it puts the entire load of dewatering on the vessel's battery system. The Coast Guard does not agree that this will be unsafe if the system is designed and installed properly. The boat's electrical system, including size and number of batteries and alternators, must be adequately designed and proper maintenance must be conducted to account for the load of the electrically operated pumps. A new paragraph (e)(8) is being proposed which will require that electrical capacity be taken into account in design of the electrical system on a vessel equipped with submersible bilge pumps. However, bilge pumps are not intended to be able to keep up with uncontrollable flooding.

Two comments recommended that the "Rule" type pumps allowed by paragraph (e) should each have a capacity of 10 gpm, and that this should be clearly stated in the regulations. The Coast Guard agrees but finds that it is already stated adequately. Paragraph (e) states that a "submersible electric bilge pump may only be used as a power bilge pump required by Table 182.520(a) * * *" provided certain conditions are met. Table 182.520(a) lists the minimum requirements for power bilge pumps, the least capacity of which is 10 gpm. It should be noted that most submersible electric bilge pumps are of the low pressure centrifugal type which have a reduced flow capacity when operating resistance (or head) is increased. Most of these pumps come with a head-capacity diagram from the manufacturer, which frequently indicate that actual flow can be as much as 50% less than nominal flow when operating against as little as 2 or 3 feet of head. This should be taken into account by owners and operators when designing and installing these pumps, so that the flow, from the pump as installed, meets the regulatory minimum.

One comment stated that, where individual pumps are used for separate spaces as allowed by paragraph (e), they should be required to be controlled from a central point. One comment stated each bilge pump allowed under paragraph (e) should have a running light at the operator's station. The Coast Guard agrees that individual pumps provided for separate spaces should be controlled from a central point. A light which shows that a bilge pump is running will provide instant feedback to the operator on the status of the bilge pumps. Many present installations are already this way. The rule proposed in the NPRM has been revised in this SNPRM to identify requirements for individual pumps which are provided for separate spaces.

One comment stated each bilge pump allowed under paragraph (e) should be controlled by a float switch. The Coast Guard does not agree that float switches are necessary for a safe bilge pump system.

Two comments stated each bilge pump allowed under paragraph (e) should be connected by rigid piping to non-return valves. The Coast Guard considers suitable flexible hose adequate, and the proposed requirements for its use are in the NPRM. The Coast Guard concurs that a non-return valve is good idea, but the pressure put out by these pumps is typically not enough to open a check (non-return) valve. For this reason a shutoff valve is required at the hull penetration in case of back flooding.

One comment questioned the meaning of the term "primary pump" used in paragraph (j)(1), and requested that the connection between this term and Table 182.520(a) be clarified. The Coast Guard agrees. To minimize confusion, the term "primary" has been changed to "dedicated" in this SNPRM to agree with terminology found elsewhere in this subpart.

One comment stated submersible bilge pumps should not be allowed in lieu of required bilge pumps and one comment stated that submersible pumps are highly overrated and that a standard should be referenced to ensure that the pumps meet minimum safety requirements. The Coast Guard disagrees. Electric submersible pumps are often the preferred option of builders and have proven successful in their usage. The acceptance of electric submersible bilge pumps reflects current policy of many OCMIs and satisfactory experience with such pumps.

Section 182.530 Bilge Level Alarms

This section of the NPRM proposed high bilge level alarms for unattended machinery spaces below the deepest load waterline on all vessels of at least 26 feet in length. Two comments suggested that bilge alarms be required on all vessels of not more than 65 feet which carry passengers. Two comments recommended that bilge alarms be installed in all watertight compartments of all wooden vessels. One comment opposed bilge alarms on all boats under 40 feet. One comment stated that bilge level alarms did not need to be required on open vessels or vessels not operated from a flying bridge. The Coast Guard's position is that bilge alarms are

necessary and that the requirement proposed in the NPRM strikes a good middle ground for the comments received. Vessels under 26 feet generally have small bilge areas which are readily monitored by the crew, and bilge alarms are not necessary. Vessels 26 to 40 feet may have bilge areas which are not readily accessible or observable to the operator. In unattended areas where large quantities of bilge water can accumulate, bilge level monitoring provides an inexpensive means of informing the operator of bilge status. Casualty records have indicated that certain casualties may have been avoided if the operators had been aware of the bilge level.

One comment recommended that "tattletale" lights be installed to warn the operator that the bilge pump is not keeping up with the flow of water into the vessel. The Coast Guard disagrees. High level alarms and indicators, which will show when automatic bilge pumps are operating, are proposed by this SNPRM. If the pump is not keeping up with the flow of water into a vessel, the operation indicator will remain on continuously and the high level alarm will draw the operator's attention to this.

Subpart F—Steering Systems

Section 182.610 Main Steering Gear

The NPRM proposed new requirements for minimum rudder swing times, rudder angle indicators (for certain vessels), electrically operated rudder installations, and rudder stops. One comment stated that rudder movement cannot be practically measured, as required by paragraph (a)(3), unless rudder angle indicators are required on all vessels. The Coast Guard has concluded that, if a rudder angle indicator is not installed, fairly accurate approximations of actual rudder movement during operational tests can be made, and should be satisfactory.

One comment concurred with the addition of the steering gear performance requirements in paragraph (a)(3), but stated that 28 seconds is an unrealistically slow time for rudder travel. The Coast Guard disagrees. This regulation is a minimum requirement based on the vessel moving ahead at maximum service speed. Smaller, slower vessels normally meet this time limit easily but larger, faster vessels may approach the 28 second limit for the rudder(s) having to travel 65 degrees. The 28 second duration is adequate to provide an acceptable margin of safety.

One comment recommended the deletion of the paragraph (b), ((f)(1) in this SNPRM), requirement for a visual indicator showing operation of the power units for power driven steering gear since it is an unnecessary gadget. The operator would immediately know of a steering failure due to the difference in effort to operate the helm. The Coast Guard disagrees but recognizes that remote visual indicators may not be appropriate for all vessels. The rule proposed in the NPRM has been revised in this SNPRM to require visual indicators only on vessels of more than 65 feet in length with power driven steering gear installations.

One comment recommended that the requirement in paragraph (c) ((f)(2) in this SNPRM), to post transfer procedures should be limited to small passenger vessels of more than 65 feet in length and vessels with overnight accommodations for more than 49 passengers. The Coast Guard agrees that this requirement may be unnecessary on smaller vessels, and has revised the rule in this the SNPRM to require posting of steering transfer procedures only on vessels of more than 65 feet in length with power driven steering gear installations.

Five comments stated that the rudder angle indicators required by paragraph (e), ((f)(4) in this SNPRM), are generally unnecessary. The Coast Guard disagrees. This regulation is consistent with regulations presently requiring rudder angle indicators on vessels comparable in size to small passenger vessels of more than 65 feet in length, including offshore supply vessels and sailing school vessels. In addition, a review of steering casualties on all vessels with power actuated steering shows that a rudder angle indicator can provide the initial indication of a steering failure.

One comment stated that manual means to steady the rudder required by paragraph (i), ((f)(6) in the SNPRM), is unnecessary for twin screw vessels with hydraulic steering. Another comment stated that manual means of steering is unnecessary since there will be auxiliary steering. Although twin screw vessels are more maneuverable than single screw vessels, the difference is not great enough to eliminate the requirement to manually steady the rudders in an emergency. The auxiliary means of steering is used when control is lost from the primary control station. This regulation addresses an emergency of greater magnitude, such as when rudder control is totally lost and the rudder is swinging freely. This requirement would not require manual steering, just that the operator be able to steady and center the rudder(s).

Three comments stated that limit switches required by paragraph (j), ((f)(7) in the SNPRM), are unnecessary since hydraulic systems have built-in stops at cylinder ends and pressure relief devices to prevent overstressing. The Coast Guard disagrees. Limit switches are intended to prevent rudders from hitting the stops and to prevent the activation of safety devices such as relief valves during normal service.

One comment stated that the requirements proposed in paragraph (k) would cause problems with practical implementation, referring to things such as the type of spring arrangement and method of installation. The Coast Guard agrees and has removed this paragraph in this SNPRM.

One comment recommended that all bolts and clevis pins on steering gear linkages should be drilled and cotter pinned for safety. The Coast Guard agrees. However, experience indicates that this has been standard engineering practice which does not necessitate inclusion in the regulations.

Due to the number of comments received, and the general nature of this section's original focus, the entire section has been revised in this SNPRM to better apply specific requirements to specific vessels based on size and steering gear type.

Section 182.620 Auxiliary Means of Steering

This section contains requirements for auxiliary means of steering and specifies circumstances where auxiliary means of steering are not required. One comment recommended that paragraph (a)(3) be revised to read "* * * location that permits the person steering to have the best possible all around vision and does not expose the person * * *". The Coast Guard disagrees. Some auxiliary steering stations are in the steering gear room which necessitates the operator to communicate to control station personnel via intercom, sound powered phone, or other method. The overall view of the person is not always a concern. Section 184.602 proposes adequate internal communications for such purposes.

One comment recommended that in paragraph (a)(3) "personnel hazards" replace "danger", and "extreme" be deleted. The Coast Guard agrees that the suggested wording is an improvement. The paragraph has been revised in this SNPRM to clarify the wording.

Subpart G—Piping Systems

One comment stated that the term "piping systems" should be clarified and specifically include the term "components." The Coast Guard agrees. The definition of "piping system" has

been incorporated into § 175.400 of this SNPRM.

Section 182.710 Piping for Vital Systems

This section defines vital and non-vital systems and contains requirements for piping used in vital systems. Two comments stated that aluminum vessels with aluminum piping are not considered in 46 CFR 56.60, which is referenced by paragraph (c), and that aluminum piping should be allowed on aluminum vessels, as is the current practice. The Coast Guard disagrees. Aluminum piping is addressed in 46 CFR 56.60–20 (subchapter F). Aluminum alloy pipe or tube may also be used within the limitations stated in section 123.2.7 of ANSI B31.1 and 46 CFR 56.10–5(c)(4). If authorized by the Commandant, aluminum and aluminum alloys may be used to conduct flammable, combustible, or dangerous fluids, or may be used in vital systems.

One comment stated that this subpart does not clarify where nonmetallic pipe may be used, such as in bilge systems. The Coast Guard disagrees. This section refers to § 182.720 where the use of nonmetallic piping is addressed further.

Section 182.720 Nonmetallic Piping Materials

This section contains requirements for, and limitations on, the use of nonmetallic piping, including bulkhead and shell penetration requirements. It is largely the same as existing requirements in subchapter T. Due to the nature of comments received, it was apparent that requirements for the use of nonmetallic flexible hose were not written clearly enough. The SNPRM now includes a new paragraph (e), dealing specifically with nonmetallic flexible hose, which contains requirements from subchapter F and from § 182.455 of the NPRM.

One comment questioned why the last sentence of paragraph (a) apparently allows plastic (vinyl) tubing in pneumatic control systems since this is not currently accepted. Another comment stated that this regulation is not clear, noting that propulsion systems are defined as vital and that nonmetallic materials may not be used in vital systems, and questioned if Coast Guard allowance of nonmetallic flexible materials in pneumatic systems extended to propulsion systems. The Coast Guard did not intend that plastic (vinyl) tubing be allowed in pneumatic control systems. However, the Coast Guard does agree that flexible nonmetallic materials are sometimes necessary in vital as well as non-vital systems due to the vibrating or impulse-pressuring nature of some equipment, including pneumatic controls for propulsion systems. The last sentence in paragraph (a) of the NPRM, (now (b) in the SNPRM) has been revised to reference a new paragraph (e) for the use of nonmetallic flexible hose.

One comment stated that nonmetallic pipes meeting certain specifications should be permitted in bilge systems on vessels of not more than 65 feet in length. Although currently allowed by existing subchapter T for vessels of not more than 65 feet in length carrying not more than 49 passengers, this would be inconsistent with the revised and more specific definition and requirements for vital systems, which now include bilge systems. It is the Coast Guard's intention to make the construction material requirements for vital system piping consistent for all vessels regardless of size or passenger capacity. The only exception to the requirement for metallic piping in bilge systems is found in § 182.520, for the discharge lines of submersible electric bilge pumps, where they are permitted. Reference to this exception is made in new paragraph (e) of this SNPRM which contains requirements for the use of nonmetallic flexible hose.

One comment stated that nonmetallic piping should be allowed for non-vital systems and that installing a valve on each side of a bulkhead when using a metal spool piece, as required by subparagraph (c)(2), (paragraph (d) in the SNPRM), is unnecessary. Nonmetallic piping would be allowed in non-vital systems by the regulations proposed in the NPRM. The purpose of the valves and metallic spool piece is to maintain firetight and watertight integrity. No change was made for the SNPRM.

One comment stated that valves required by paragraphs (c) (1) and (2), (now (d)(1) and (2) in the SNPRM) are not required if the penetration is above the margin line, adding that this requirement is not stated in the new regulations and should be addressed because the intent as written is unclear. The Coast Guard agrees. Paragraph 182.720(c)(1) specifically addresses "required watertight decks and bulkheads." Paragraph 182.720(c)(2) is also intended to address required watertight decks and bulkheads and has been reworded in this SNPRM to clarify the decks and bulkheads to which this regulation applies.

One comment stated that approval of nonmetallic fittings, allowed by paragraphs (c)(4) and (5), (now (d)(3) and (4) in the SNPRM) should be retained by the Commandant. The Coast Guard disagrees. The OCMI may request technical assistance from the Marine Safety Center or Commandant if necessary.

Section 182.730 Nonferrous Metallic Piping Materials

This section contains requirements and restrictions for use of nonferrous piping materials. It allows use of nonferrous piping materials in non-vital systems and some limited use of aluminum piping on aluminum hulled vessels. Nonferrous piping materials may be used in other situations as deemed appropriate by the OCMI. Restrictions include provisions for protection in high risk fire areas and against galvanic corrosion effects. Two comments requested the rationale in denying use of copper or brass in bilge lines where aluminum is not involved. Copper, copper-nickel, nickel-copper, brass, and bronze are acceptable for use in bilge systems, and have been used frequently in the past. The Coast Guard did not intend that they be omitted. The rule proposed in the NPRM has been revised in this SNPRM to allow the use of nonferrous metallic piping with melting temperature above 1700° F to be used in vital systems to the satisfaction of the OCMI.

One comment stated that if it is the intention of paragraph (b)(4) to limit copper content in aluminum piping to 0.6 percent, aluminum should be specified. The Coast Guard agrees that the proposed regulation addresses aluminum. The analogous regulation in 46 CFR 56.60–20(a)(4) specifically addresses aluminum. The rule proposed in the NPRM has been revised in this SNPRM to limit the copper content in aluminum alloys.

One comment stated that aluminum fuel piping is currently used in machinery spaces and its use should continue to be allowed. In general, because of its low melting point, aluminum is not suitable as fuel piping in spaces such as engine rooms and other machinery spaces, which are more likely to be exposed to a fire. Subchapter F prohibits the use of aluminum piping for combustible fluids unless approved by the Commandant. Coast Guard interpretation of existing § 182.20–40(a) does not normally allow this practice on small passenger vessels. However, local building practices and OCMI policies sometimes allow limited use of thick walled aluminum piping in circumstances such as short runs from fuel tanks in or adjacent to the engine room to the first valve in the fuel line. Use of structural fire protection insulation has sometimes been required. Aluminum fuel piping would be allowed outside of machinery spaces in

accordance with the limitations proposed in this SNPRM, but would not be allowed in machinery spaces. However, other installations of aluminum diesel fuel piping (i.e., in machinery spaces) may be accepted by the OCMI under proposed § 182.730(a)(4) of the NPRM, which has been renumbered as § 182.730(a)(5) of this SNPRM. Each installation of aluminum piping for fuel service will be individually reviewed and many factors (such as electrolysis, corrosion, fire hazard, amount of insulation/fire protection and practicality) will be taken into consideration. The OCMI may rely upon the Marine Safety Center or Commandant for technical assistance.

Part 183—Electrical Installations

Subpart A—General Provisions

The NPRM proposed to revise the regulations governing small passenger vessel electrical installations to reflect current installation practices and technologies. One comment suggested that since noncommercial boat electrical regulations are in 33 CFR part 183 and that equipment in 33 CFR part 183 is required to be marked "Meets Part 183", the T-Boat electrical regulations in 46 CFR part 183 should be moved to another section to avoid confusion with 33 CFR part 183. The Coast Guard disagrees. Noncommercial electrical components manufactured to comply with 33 CFR part 183 are generally ignition protected electrical components designed for use in gasoline engine installations. There is no specific requirement to label noncommercial electrical components with the words "Meets 33 CFR 183" or "Meets Part 183", but the Coast Guard recognizes that since noncommercial components are under a manufacturer self-certification program, some manufacturers may in fact be placing this statement on their equipment. However, since there are no marking requirements in 46 CFR part 183, field personnel should easily be able to evaluate and determine component suitability.

ABYC Standards E–8 and E–9 provide thorough guidelines for AC and DC electrical systems. Although no comments were received, the Coast Guard is considering allowing the use of these two standards as an alternative to the requirements in part 183 for all vessels proposed in this SNPRM to be regulated by subchapter T. The Coast Guard is hereby soliciting specific comments concerning the practicality and safety of this alternative.

Subpart B—General Requirements

Section 183.220 General Safety Provisions

This section of the NPRM outlines general safety guidelines which equipment must meet and conditions which designers and installers must be aware of. Two comments suggested that a vessel's route of operation be considered in determining specific equipment standards, with one making specific reference to the relaxing of UL lighting fixture standards for vessels on protected routes. The Coast Guard agrees in part, and has revised § 183.410(d) in this SNPRM by expanding the list of UL lighting fixture standards which are acceptable for fixtures used in interior spaces.

One comment suggested that this section include a regulation requiring all electrical components to be UL approved. The Coast Guard disagrees. Components suitable for the intended service should be adequate. Use of all UL approved electrical components does not provide an increased level of safety. A properly designed system constructed in accordance with these regulations provides a minimum level of safety for marine electrical installations. The use of all UL components will not be required. Use of all UL approved electrical components may be used at the discretion of the builder or operator.

Subpart C—Power Sources and Distribution Systems

Section 183.310 Power Sources

The NPRM outlines the basic requirements for vessel power and distribution systems. Two comments suggested that no evidence exists to support the need for two independent sources of power for vital loads. Further, the comment stated that there is no evidence to show that this requirement will increase safety. The Coast Guard disagrees. With the increase in vital systems which are electrically powered or controlled, the intent of the proposed rule is to prevent a failure of one power source from disabling the vessel. Vital systems which do not depend upon electrical power do not require a second power source.

One comment suggested eliminating the redundancy in § 183.310 where systems which are referenced in paragraph (a)(1)(i) are repeated in paragraphs (a)(1) (iii), (vi) and (vii). The Coast Guard agrees. In the SNPRM the text has been revised to eliminate redundancy.

One comment suggested that a definition for the term "batteries of adequate capacity" is necessary for clarification of § 183.310(a)(2). The Coast Guard agrees that this wording is vague and may lead to confusion. In the SNPRM, the text of proposed § 183.310(a)(2) has been revised.

Two comments stated that it is not clear whether paragraph (b) applies to battery charging devices or a ship service generator driven by the main engine. The Coast Guard agrees that the wording proposed in the NPRM may present some confusion. The proposed rule applies to engine or shaft driven ship service generators, where engine speed is critical to electrical power output. The proposed rule does not apply to installations where generators or alternators are used to keep batteries charged. In the SNPRM, the text has been revised for clarification.

Section 183.312 Power Sources on Vessels of More Than 65 ft. in Length With Overnight Accommodations for More Than 49 Passengers

This section has been moved to subchapter (K) § 120.312. The NPRM requires certain vessels to meet requirements in addition to those found in § 183.310. One comment said it would be clearer to state what is intended in this paragraph instead of referencing § 111.10 because it is not clear whether the emergency power reference in § 111.10 is being adopted. The comment also suggested that a definition of "final emergency power source" be provided. The Coast Guard agrees and has referenced specific sections of parts 111 and 112 to clarify the SNPRM.

Section 183.320 Generators and Motors

One comment stated that generators should be temperature rated using the National Electrical Manufacturers Association (NEMA) standard, with a continuous rating of 80°C rise over 40°C ambient temperature rating. The comment stated the present rating requirement of 95°C over 50°C ambient temperature is unnecessary and overly expensive. The Coast Guard disagrees. First, there is no specific proposed or existing requirement for temperature rise above ambient, but there is an ambient temperature rating requirement. This requirement is based on matching the motor or generator ambient temperature rating to the temperature of the space in which it will be operating. Machinery spaces may exceed 40°C, depending on the amount of other machinery normally running and the degree of installed ventilation. Further, existing subchapter T and the NPRM allow the use of generators rated at 40°C by downrating the generator output 20%

or substantiating that the average temperature in the space does not exceed 40°C. The Coast Guard is interested in the increased use of recognized published standards, such as the NEMA standard for generator temperature ratings. The Coast Guard is concerned that generators be installed to perform as rated in a maximum ambient environment of 50°C, unless the average ambient temperature of the space under normal load operating conditions can be proved to be otherwise. Therefore, the Coast Guard is soliciting specific comments on the suitability of the commonly available 80°C rise over 40°C ambient temperature generators in 50°C environments. Insulation details and specific reasons other than cost should be provided.

Three comments were received concerning the differing motor/generator name plate requirements for vessels depending upon their length. The comments suggested that the name plate data be the same regardless of vessel length. The Coast Guard agrees that a single requirement for nameplate data should be adopted. In the SNPRM the text has been revised to provide a single reference for motor/generator nameplate data.

One comment recommended that required nameplate data include the service factor. The Coast Guard agrees this information is useful, but since many manufacturers already provide this information on their nameplates, compliance with the National Electric Code (NEC) for nameplate data as required by this section is considered adequate as a minimum requirement.

Section 183.322 Multiple Generators

One comment suggested deletion of "as required by § 183.310(a)", or the addition of a reference to § 183.312(a). The Coast Guard agrees that the wording in this section is unclear. Section 183.322 addresses additional requirements for generators installed to operate in parallel, whether required by this subpart or not. In the SNPRM the text has been revised for clarification.

One comment suggested that a definition for the term "independent power source", used in paragraph (a), should be added. The Coast Guard agrees this term could be misleading. In the SNPRM, the text has been revised to read "independent prime mover".

Section 183.324 Dual Voltage Generators

Four comments disagreed with the requirement to ground the neutral conductor of the generator at the switchboard. From review of the comments received, it appears that this requirement was misinterpreted. Grounding of a current-carrying neutral conductor at the switchboard is an existing requirement, and means connection to a neutral bus which is then connected to ground, and not a solid connection to the metallic switchboard enclosure. Further, this requirement is consistent with current industry practice for dual voltage systems both in marine installations and ashore.

Section 183.330 Distribution Panels and Switchboards

One comment suggested the amount of working space should be specified in § 183.330(f) by reference to § 111.30–1 of subchapter J. The Coast Guard agrees the amount of working space should be specified, and proposes to use the requirements outlined in existing subchapter T. In the SNPRM the text has been revised to include this change.

One comment suggested that § 183.330 include interlock requirements which would deenergize circuits upon opening panel doors, except for vital systems. The Coast Guard agrees, but only if there is more than one source of potential to the enclosure. In the SNPRM, the text has been revised to include this situation.

Section 183.340 Cable and Wiring Requirements

Two comments suggested clarification of the term "other enclosure" used in § 183.340(a). The Coast Guard agrees that the meaning of this term is unclear. In the SNPRM, the text has been revised to include the word "protective" to describe the enclosure. The intent is to provide an enclosure for wire installations which will afford protection from mechanical damage.

One comment suggested that regulations addressing wire and cable supports be added. The Coast Guard agrees. In the SNPRM, the text has been revised to add parameters for support material and spacing, including reference to ABYC Standards and Recommended Practices for Small Craft for certain vessel installations.

Two comments suggested the elimination of the requirement for "wire" conduit, because armored "cable" or plastic coated shipboard "wire" is satisfactory. Five comments suggested that multiconductor "cable" did not need to be run inside conduit and one comment suggested that wireways be required instead of conduit. The Coast Guard disagrees. The terms "wire" and "cable" were used interchangeably in the comments received. The definitions in § 175.400 make a specific distinction between the terms "wire" and "cable". The intent of the proposed rule is to offer protection from mechanical damage to "wire" installations, not "cable" installations. The intent was not to limit electrical installations to the use of "cable" only. The rule proposed in the NPRM was not changed.

One comment suggested the splicing prohibition in §§ 183.340(m) and 183.340(n) be deleted because it appears to be in conflict with subparagraphs 183.340(g)(3) and (g)(4), which allow a different kind of splice. Further, the comment suggested the requirements in paragraphs (g) and (h) already provide sufficient protection and flexibility for splices. The Coast Guard disagrees. The requirements outlined in § 183.340 follow those for other vessels found in §§ 111.60–17 and 111.60–19 of Subchapter J. The requirements in § 183.340(g) and (h) apply to individual conductor connections made within an enclosure, while § 183.340(m) and (n) apply to cable splices. Therefore, the rule proposed in the NPRM was not changed.

Two comments suggested wire nuts be exclusively prohibited. The Guard agrees. Wire nuts may loosen due to the vibrations inherent in the shipboard environment. Damage to the conductor wires which is not detectable may also result. In the SNPRM the text of paragraph (j) has been revised to prohibit the use of wire nuts.

One comment suggested that paragraph (p) adopt the NEC 310–15B requirement for voltage drop in lieu of 10%, as proposed by the NPRM. The Coast Guard disagrees, and has no information which would justify mandating the stricter standard.

One comment suggested incorporating the tables currently found in 46 CFR 183.05–45(a) and (c) into the proposed rules. The Coast Guard agrees in part, but considers only the 12 volt section of Table 183.05–45(c), with the subsequent formula for calculation of all other voltages, appropriate for retention as a tool used during initial plan review. The NEC contains more comprehensive, up-to-date tables for ampacity which are a suitable replacement for Table 183.05–45(a). A new Table 183.340(p), which contains the 12 volt section of existing Table 183.05–45(c), has been provided in this SNPRM and the text of paragraph (p) has been revised.

Section 183.350 Batteries, General.

One comment stated that paragraph (b) should read "as high in the bilge as possible and preferably on or above the ER deck", and one comment suggested watertight boxes be required for battery installations. The Coast Guard does not

agree that battery boxes need to be watertight. Requiring watertight enclosures is not supported by existing casualty data and would place an unnecessary financial burden on vessel owner/operators. However, the SNPRM has been revised to include a statement addressing the protection of batteries from exposure to water splash or spray.

One comment suggested deleting the requirement in paragraph (c) that there be sufficient free space above batteries for removal. The Coast Guard agrees that accessibility can be provided by means other than free space above the batteries, and has revised the wording in this section to reflect this comment.

One comment suggested § 183.350(e) should specify a minimum height requirement of 3" and thickness for trays of 1/16", in line with the existing requirements in § 111.15–5(g) of Subchapter J. The Coast Guard disagrees, and considers this degree of specificity unnecessary.

One comment suggested specifying fiberglass/resin or fiberglass/epoxy battery trays or liners. The Coast Guard disagrees. A battery tray or liner may be constructed of any material which is resistant to damage by the installed battery electrolyte. Section 183.350 as written in the NPRM is considered adequate and is not changed in this SNPRM.

Two comments suggested a more specific definition than "adjacent to a distribution panel" be provided in § 183.350(g). The Coast Guard disagrees. This is an existing regulation whose intent is to prevent arcing and fires due to a short circuit in the supply cable from the battery to the distribution panel. The term "adjacent to a distribution panel" means close enough that the likelihood of damage to the connecting power cable is minimized or nonexistent due to its negligible length. No change has been made to the rule proposed in the NPRM.

One comment suggested that batteries used for starting should be located as close to the starter motor as practical. The Coast Guard agrees. A requirement has been added to § 183.350 of the SNPRM which requires that batteries be placed as close as possible to the starter motors.

Section 183.352 Battery Categories

One comment asked if an engine driven alternator qualified as a battery charger. There is no specific requirement in the regulations for a battery charger, although most installations have one available as a charging source. An engine driven alternator, while not classified strictly as a battery charger, is an acceptable charging source. If an engine driven alternator is the charging source for a battery system used to meet the requirements in proposed § 183.310, then it would be considered a battery charger subject to the requirements of this section.

Five comments suggested the battery categories are ridiculous. The Coast Guard disagrees. Upon review of examples cited in the comments, a misinterpretation of the regulation is apparent. The determination of battery categories does not apply to propulsion engine starting batteries. It does apply to battery systems used to meet the requirements in proposed § 183.310, where a second power source is specified for certain normal or emergency loads. To simplify the requirements for storage battery charging, battery categories have been reduced to 2 in number with additional requirements specified if the continuous charging rate is greater than 2 kilowatts (kw). In the SNPRM, the text has been revised to reflect these changes.

One comment suggested the method for determining output, in kw, of a battery charging system be added. The Coast Guard disagrees with the need to include this formula in the text of the regulations, since it can be easily determined from normal reference sources. The standard formula for DC systems is: POWER (in watts) = VOLTAGE × AMPERAGE (either charging or discharging). For example, a 40 amp alternator connected to a 12 volt system would have an output of 480 (12 × 40) watts (.48 kw). Similarly, for a 24 volt system with a 60 amp alternator the output would be 1,440 (24 × 60) watts (1.44 kw), still well under the 2 kw limit for large battery installations. The Coast Guard has determined that very few vessels proposed to be regulated by Subchapter T or K will have battery banks big enough to be categorized as "large" (i.e., greater than 2 kw charging power output), unless one of the power sources required by § 183.310 is a battery bank.

Section 183.354 Battery Installations

The Coast Guard has reevaluated this section, placing additional requirements only on those installations with a continuous charging rate greater than 2 kw. This section is now expected to affect only the largest of the small passenger vessel population. One comment suggested that large battery installations not be classified as hazardous locations. The Coast Guard disagrees. Overcharging or deep discharge of commonly used lead acid storage batteries are just two of the mechanisms which may cause excess hydrogen gas production. If this occurs, the concentration of gas in the space may reach explosive levels. This is the justification for the Class I, Division 1, Group B requirement.

One comment suggested § 183.354(a) be rewritten for clarity. The Coast Guard disagrees. The present text references § 111.105 of subchapter J, which references § 111.15. Subpart 111.15 provides more comprehensive requirements for battery installations.

One comment suggested that the battery compartment/box be non-conductive. The Coast Guard agrees this is a good idea, but does not see the need to specify this in the regulations.

Seven comments disagree with the need for a battery room. The comments stress the impracticality and lack of safety of such an arrangement on small passenger vessels. Locating batteries in an already well ventilated space such as an engine room, as most installations are now, is considered adequate. Two comments also disagree with battery stowage on deck. The Coast Guard has clarified the battery category definitions by specifying that this section does not include starting battery installations. Further, the Coast Guard requirement now only specifies a dedicated battery location for installations with a continuous charging rate greater than 2 kw. In the SNPRM, the text has been revised to reflect these changes.

Section 183.360 Semiconductor Rectifier Systems

One comment suggested that nameplate data for SCR systems be required. The Coast Guard agrees. In the SNPRM, the text has been revised to require compliance with specific sections of the ABS rules, which would require nameplate data.

Section 183.370 System and Equipment Grounding

One comment suggested that §§ 111.05–15(a) and 111.05–17 of Subchapter J, concerning grounding, be applied to this section, and that ungrounded systems be addressed. The Coast Guard agrees that the additional requirements in Subchapter J should be applied to a grounded system. Present installations are commonly of this type and include these requirements. In the SNPRM, the text of the proposed § 183.370 has been revised.

Section 183.380 Overcurrent Protection

One comment suggested lighting branch circuits should be 15 amps vice 30 amps as allowed by paragraph (f). The Coast Guard disagrees. This rating is consistent with industry practice and

is also found in § 111.75–5(a) of Subchapter J.

Paragraph (h) of the NPRM would require protection of motor conductors and control apparatus against overcurrent due to short circuits or ground faults. Although there were no specific comments concerning protection against overload due to motor running overcurrent, this requirement has been added in this paragraph of the SNPRM. A similar requirement can be found in existing § 183.10–40.

One comment suggested the emergency battery switch required by paragraph (i) should be located where accessible in an emergency, not necessarily at the batteries. The Coast Guard agrees. Proximity as well as accessibility is important. In the SNPRM, the text has been revised.

One comment suggested that reference to "another independent laboratory" in paragraph (m) be deleted. The Coast Guard disagrees since the listing of a product should not be limited to UL exclusively. However, the wording in the SNPRM has been revised to show that the independent laboratory must be recognized the Commandant.

Paragraph (n) of this section requires circuit breakers to meet UL Standard 498. The Coast Guard is also aware of UL Standard 1193 for Boat Circuit Breakers designed for vessels less than 65 feet, published on June 22, 1988. The Coast Guard is soliciting specific comments concerning the suitability of this standard in addition to UL 498 for inclusion in the revised Subchapter T.

One comment suggested requiring Ground Fault Indicator circuit breakers in damp locations. The Coast Guard disagrees. Insufficient casualty data exists to require the added expense of these devices.

Section 183.392 Radiotelephone Installations

One comment suggested this rule be clarified or deleted because multiple radio installations should not require separate circuits. The Coast Guard disagrees. The intent of this regulation is to prevent a fault in one line tripping a circuit breaker and taking down all radio communications.

Subpart D—Lighting Systems

Section 183.410 Lighting Systems

Ten comments expressed objection to requiring interior lighting fixtures to meet UL 595. One comment suggested that a reference to decorative lighting be added.

One comment suggested the Coast Guard should require UL 595 lighting fixtures on vessels under 65 feet in length. The Coast Guard recognizes that the UL 595 specification may not be necessary for all applications, and does not consider a differentiation based on vessel length necessary. Lighting fixtures located in interior spaces which are not subject to the exterior marine environment need not meet the requirements of UL 595. In the SNPRM, the text has been revised to reflect this change.

Section 183.420 Navigation Lights

One comment suggested the OCMI exemption statement required by paragraph (a) is not necessary. The Coast Guard agrees. Further, the reference to § 111.75–17(d) for vessels of more than 65 feet in length has been removed and the referenced requirements have been included in the text of the SNPRM.

Section 183.432 Emergency Lighting

One comment suggested the emergency lighting requirements of paragraph (a) be extended to crew accommodation spaces. The Coast Guard agrees and has revised the text in this SNPRM.

One comment suggested that emergency lighting on party fishing boats is not necessary due to their design. The Coast Guard disagrees, but realizes that all vessels of more than 65 feet may not warrant such an extensive emergency lighting system, and that the present wording may be misleading. This is an extension of an existing regulation for passenger egress from spaces below the main deck which has simply been amplified to include crew accommodations, and all other spaces where due to the size of the vessel or number of passengers, existing lighting would prove inadequate. The text has been changed in this SNPRM to clarify this point.

Section 183.434 Lifeboat and Liferaft Floodlight on Vessels of More Than 65 Feet in Length With Overnight Accommodations for More Than 49 Passengers

This section has been moved to Subchapter K, § 120.434. One comment suggested flood or searchlights at rescue platforms or rescue boarding areas on a vessel without a rescue boat, and lights for the embarkation station of a rescue boat, for vessels so equipped. The Coast Guard agrees. In the SNPRM, the text has been revised to include lighting at all rescue boarding locations or where primary lifesaving devices may be deployed.

Subpart E—Miscellaneous Systems and Requirements

Section 183.510 Propulsion Engine Control Systems

This section has been revised to clarify the control system requirements outlined in the NPRM, and relocated to § 184.620. It would specifically require that a vessel have a means of controlling the speed, direction of shaft rotation, and shutting down of the propulsion engine(s). The requirement to have an independent propulsion engine shutdown at each location where a propulsion engine can be started or have its speed controlled has been deleted. This emergency shutdown would only be required at the main pilothouse control station.

Four comments suggested that the phrase "two means of controlling each (propulsion) engine", used in paragraph (a)(1), be more clearly defined. The Coast Guard agrees and has clarified this requirement in this SNPRM.

One comment suggested that two means of controlling each propulsion engine was not cost effective or necessary. Two comments suggested that this section be rewritten to clarify the intent that a twin engine vessel with independent remote control would not need backup controls on each engine. In the SNPRM, the text has been revised to indicate that multiple engine vessels do not require a second means of control.

One comment does not think it necessary to have engine shutdown controls at wing stations which are in close proximity to controls in the pilot house, as required by paragraph (b). Further, the comment stated that engine starting is just as important as engine shutdown, and that the NPRM did not address this feature. The Coast Guard agrees concerning shutdown requirements, and has revised the SNPRM to require an emergency engine shutdown only at the main wheelhouse control station. However the Coast Guard disagrees that engine starting capability should be specified by regulation. Most pilothouse control installations already include this feature. This is an item which will be left to the discretion of the owner.

One comment suggested relocating this section to § 182.200. The Coast Guard agrees that this may not be the best location for this subpart, and has moved it to § 184.620 of Subpart F—Control and Internal Communications, which was previously titled "Stabilization systems on dynamically supported craft".

Section 183.530 Hazardous Locations

One comment suggested paragraphs (a) and (b) specify the hazardous areas and refer to § 111.105 of Subchapter J to address all other aspects of Hazardous Areas. The Coast Guard disagrees that further specification of hazardous areas is necessary. This section has been reworded to be consistent with other wording on this topic throughout the SNPRM.

One comment requested that electric solenoid valves installed for remote fuel tank shutoffs be addressed. The Coast Guard agrees, but will address this issue in § 182.455(b).

Section 183.550 General Alarm Systems on Vessels of More Than 65 Feet in Length With Overnight Accommodations for More Than 49 Passengers

One comment suggested some type of alarm system be required for any boat with overnight accommodations. The Coast Guard agrees and this section has been rewritten in this SNPRM to address all vessels.

Part 184—Vessel Control and Miscellaneous Systems and Equipment

Supbart A—General Provisions

Section 184.100 General Requirement

The Coast Guard is proposing in this SNPRM to add a new paragraph to this section emphasizing that the OCMI is authorized to require navigation, control, or communications equipment, in excess of the equipment specifically required by this part, on a vessel which is of a novel design, operates at high speeds in restricted or high traffic areas, operates in a dynamically supported mode, or operates on extended routes or in remote locations. The Coast Guard has determined that the specific equipment requirements of this part are adequate for most small passenger vessel operations. However, due to the type of operations and the route of certain types of vessels, equipment may be needed beyond that specifically required by part 184. Since operating areas vary significantly, this paragraph would allow the OCMI to require special equipment on a case by case basis for the type of operations listed in the paragraph. Although the present regulations do not contain any specific requirements for electronic navigation equipment, some OCMIs presently require the installation of Loran equipment on small passenger vessels operating more than 100 miles from shore. Others have required the installation of radar on high speed surface effect vessels operating in busy waterways.

Section 184.115 Existing Vessels

One comment submitted by the NTSB stated that existing vessels should have to meet the requirements for radar, electronic position fixing devices, and internal communications systems, required by §§ 184.404, 184.410, and 184.602, respectively, and should not be grandfathered as proposed. The Coast Guard disagrees. The incremental cost of adding this equipment while building a new vessel is much less than the cost of retrofitting an existing vessel. Although some casualties have been caused by not having or using this equipment, casualty statistics do not justify retrofitting. Most existing vessels already have radar or electronic position fixing devices. For those vessels which do not, § 184.115(a) specifically authorizes the OCMI to require this equipment if it is determined to be necessary for a vessel's route or service.

Subpart B—Cooking and Heating

Section 184.202 Restrictions

The proposed rule does not allow gasoline systems to be used for heating, refrigeration, or cooking, and gives limitations on the use of liquified and non-liquified gas. One comment suggested that the provisions of 46 CFR 147.50, restricting the use of liquified and non-liquified gas on board inspected vessels, should be included in this section to make this restriction clear. The Coast Guard does not consider this necessary, but does agree that the restriction can be clarified. A recent final rule entitled "Carriage and Use of Liquified and Non-Liquified Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire," [CGD 83–013] published in the **Federal Register** (55 FR 3957) on February 6, 1990, adopted new regulations concerning the use of Liquified Petroleum Gas (LPG) and Compressed Natural Gas (CNG). For consistency, § 184.202(b) has been reworded to read exactly the same as existing § 184.05–1(b), which was rewritten by the new final rule on LPG and CNG. The wording of existing § 184.05–1(d), which was adopted by the new final rule, will be included in the Subchapter T final rule as § 184.240. These changes will clearly express Coast Guard requirements.

Coast Guard has determined that cooking or heating appliances that use fuel which burns with an open flame should be specifically prohibited. This requirement is consistent with the spirit of ABYC A–3 and A–7, and NFPA 302, which are incorporated by reference. This new restriction is not intended to prohibit wood burning stoves, such as Ben Franklin stoves, or fireplaces with proper doors. Open fireplaces would be prohibited.

Section 184.240 Gas Systems

Five comments were received concerning the safety and suitability of gas systems aboard vessels. Gas systems aboard vessels were addressed by the regulatory project mentioned above, entitled "Carriage and Use of Liquified and Non-Liquified Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire," published as a final rule in the **Federal Register** (55 FR 3957) on 6 February 1990. The concerns expressed in the 5 comments received were addressed by that project and are not considered to be within the scope of this rulemaking. Section 184.240 of this SNPRM is reserved. The new final rule, which allows the use of LPG and CNG on board small passenger vessels subject to certain restrictions, will be included in this section of the Subchapter T final rule.

One comment noted that § 175.600, which lists standards incorporated by reference in Subchapter T, cites the 1984 edition of the National Fire Protection Association Standard 302 (NFPA 302) as being referenced in § 184.200. The comment correctly points out that NFPA 302 was revised in 1989. The final rule published 6 February 1990 incorporates the 1989 edition. Consequently, the 1989 edition is incorporated by reference in this SNPRM.

Subpart C—Mooring and Towing Equipment

Section 184.300 Ground Tackle and Mooring Lines

The proposed rule required the owner to determine and provide ground tackle and mooring lines suitable for safe anchoring and mooring of the vessel, considering the vessels' operations and subject to the approval of the OCMI. Two comments wanted equipment sizes to be specified in the regulations, or the required use of a classification society's standard, to prevent inconsistency between OCMIs. The size and type of anchors and lines or chains necessary to safely anchor or moor a vessel depend on many factors and will vary significantly. While numerous guidelines and standards, including a classification society's rules, are available, no one standard could properly cover each possible situation. Therefore, the Coast Guard is not making any change to the rule proposed in the NPRM, other than the clarification that the owner's selection

of size and type is subject to the approval of the OCMI.

Subpart D—Navigation Equipment

One comment suggested that the proposed rules should require main engine tachometers, or other devices to determine the vessel's speed, for dead reckoning navigation. The Coast Guard disagrees. These methods would provide a gross estimate at best, and be affected by sea state, ocean current, and wind, among other factors. Use of tachometers would require preparation of a table comparing engine speed to actual vessel speed. No changes are being made to the rule proposed in the NPRM.

Section 184.402 Compasses

The proposed rule required a magnetic compass for each vessel, which must be mounted at "the operating station" when the vessel is underway. Two comments stated that a compass should be mounted at each operating station, while two other comments stated that only one compass should be required for each vessel. One comment stated that it was obvious that the compass needed to be mounted at the operating station. The Coast Guard agrees that only one compass per vessel, located at the primary operating station, is needed and concludes that there should be a specific mounting requirement to prevent unmounted boat compasses from being used. Proposed § 184.402(c) has been deleted and the wording in § 184.402(a) clarified in this SNPRM to show this intent.

One comment suggested that magnetic compass deviation cards should be required. The Coast Guard agrees in principle, but thinks that a deviation card is more important for large vessels operating on extensive offshore routes. Small passenger vessels carrying large numbers of passengers or operating on ocean routes are required to have a radar and electronic position fixing device, which decreases the need for accurate navigation using a deviation card. Operators finding themselves offshore with only a magnetic compass for navigation, will be able to proceed towards shore. Although the course set may not be accurate, it will allow them to get to an area where coastal piloting can be used. The effort and expense for a small vessel without a gyrocompass to accurately determine deviation is substantial, while the increase in the safety level is small. For many smaller vessels, the compass itself, and the course that is able to be made good in a seaway, may have much greater error than that caused by failure to account for deviation. No changes were made to the rule proposed in the NPRM.

The NTSB urged that the regulations be changed to require gyrocompasses on all vessels on other than rivers routes with overnight accommodations for more than 49 passengers. The Coast Guard realizes that a compass is a necessary navigation tool on vessels navigating out of sight of land. However, the Coast Guard does not agree that a gyrocompass is necessary. A review of casualty data did not show a need for the more sophisticated compass. The rule proposed in the NPRM has not been changed.

Section 184.404 Radars

In general the comments were favorable concerning the NPRM's requirements for radar on certain vessels. One comment stated all vessels should have radar and another comment stated that all vessels carrying more than 49 passengers should have a radar. The Coast Guard concurs with these comments, but cost-benefit considerations do not warrant such a requirement. One comment stated that radars are not necessary on large river vessels, because they run the same route all the time. Although all river vessel masters may be familiar with the route traveled, the Coast Guard thinks that large river vessels (of more than 65 feet in length with overnight accommodations for more than 49 passengers, or carrying more than 150 passengers) should have a radar as a safety measure to navigate during poor weather conditions. The OCMI has the authority to determine that a radar is not necessary. No change was made to the rule proposed in the NPRM.

In its comment letter, the NTSB stated that the regulations should be changed to require gyrostabilized radar on all vessels with overnight accommodations for more than 49 passengers, and all vessels carrying more than 150 passengers on lakes, bays and sounds, coastwise, and oceans routes. As stated in the preceding paragraphs the Coast Guard agrees that certain vessels should be required to have a radar. However, the Coast Guard has determined that the accuracy provided by a gyrostabilized radar is not warranted on small passenger vessels.

The survival craft requirements proposed in this SNPRM for vessels on rivers routes have been reduced from those proposed in the NPRM. The nature of harbor tour and dinner cruise vessel operations is such that they can be more flexible with regard to schedules, routes taken, and weather, and these vessels generally avoid operating under poor conditions. Ferries must generally operate on a specified schedule and plotted route in restricted waters, regardless of the weather or visibility. To provide an acceptable level of safety, the Coast Guard has determined it is now necessary to require radar on ferry vessels carrying more than 49 passengers operating on rivers routes more than a mile from shore. This change has been incorporated into this SNPRM.

Four comments were received concerning the need for radar performance standards that are more specific, to ensure that the radars installed aboard small passenger vessels are effective navigational safety devices. One of the comments provided some minimum technical standards. The FCC noted that the performance standards and specifications for radar in 47 CFR part 80 do not apply to vessels under 500 gross tons, which includes small passenger vessels. The Coast Guard agrees that more specific standards are necessary, but determined that the application of FCC standards for large vessels to small passenger vessels would be burdensome. Specifically the Coast Guard realizes that the present requirements in 47 CFR part 80 do not and should not apply to small passenger vessels. However, radars which are installed should be FCC Type Accepted to insure certain minimum standards are met. The Radio Technical Commission for Maritime Services (RTCM) is a non-profit organization in which commercial interests and government agencies cooperate to study existing and proposed maritime telecommunications systems, and often develop recommendations for national and international action. The RTCM is developing recommended radar specifications appropriate for small vessels. The Coast Guard is providing information to, and working with, the RTCM Special Committee working on these standards. When developed, the Coast Guard will consider RTCM's recommendations and evaluate them for applicability to small passenger vessels.

Section 184.408 Fathometers

The NPRM requires fathometers on all vessels over 65 feet in length, unless the OCMI determines a fathometer is not necessary. Several comments were received disagreeing with the proposed regulation. The NTSB supported the proposal and urged that fathometers be required on all vessels except those with rivers routes. The Coast Guard has determined that requiring fathometers on all small passenger vessels would be excessive because of their small size and routine operating area. While properly used fathometers can prevent some

groundings, a review of the available casualty data shows a lack of casualties in which a fathometer would have made a difference. Therefore, this section has been deleted from the SNPRM.

Section 184.410 Electronic Position Fixing Devices

The comments received concerning the NPRM requirement for electronic position fixing devices on vessels with oceans routes were generally favorable. One of the comments from an operator of vessels on lakes, bays, and sounds routes stated that electronic position fixing devices were costly, without adding to safety. The Coast Guard agrees that electronic position fixing devices are not needed on lakes, bays, and sounds routes, and they were not required by the NPRM. One comment thought that electronic position fixing devices should also be required on vessels with coastwise routes. In its comment letter, the NTSB recommended that a requirement for electronic position fixing devices on all vessels, other than those on rivers routes, be adopted, in case of emergency or poor visibility. Although the Coast Guard considers electronic position fixing devices necessary for vessels operated offshore, there are other position fixing means (radar and visual lines of position (LOPs), and dead reckoning navigation) for most other vessels, including those on coastwise routes. Cost-benefit concerns were also considered. No change was made to the rule proposed in the NPRM.

The RTCM commented that general system and equipment performance standards should be included for electronic position fixing devices, and is developing recommended performance standards. When their recommendations are formalized the Coast Guard will evaluate them for applicability to small passenger vessels.

The Coast Guard is revising its radiobeacon service areas from two LOPs (for position fixing) to one LOP (for homing), and has evaluated Radio Direction Finders (RDFs) as not acceptable for use as electronic position fixing devices. Under the revised system, an RDF is not considered capable of providing accurate fixes.

Section 184.420 Charts and Nautical Publications

The NPRM required charts and several important navigation publications aboard all vessels, as appropriate for the intended voyage. One comment suggested that subchapter T should be carried onboard. The Coast Guard does not consider this necessary. The owner and/or operator is responsible for being aware of Coast Guard standards and requirements, whether a copy of the regulations is aboard the vessel or not. One comment stated that the Navigation Rules should be required to be onboard. In 33 CFR 88.05, each self-propelled vessel 12 meters (39.4 feet) or longer is required to have a copy of the Inland Navigation Rules onboard. The Inland Rules are collocated with the International Rules in most publications. Any local OCMI can require sail propelled vessels to have Navigations Rules on board if determined to be appropriate. One comment wanted the wording of this section to reflect that vessels such as ferries, on short frequent trips over the same route, do not need charts and publications. On many ferries or other vessels on short frequently traveled routes, it may not be necessary to have charts, Coast Pilots, and other publications. However, tide variations may warrant tide and tidal current tables. The Coast Guard's position is that the local OCMI can best make this determination based on local geography, weather conditions, tidal range and current, and other factors. No changes were made to the rule proposed in the NPRM.

Subpart E—Radio

The NPRM requires that radio installations comply with FCC requirements and have an emergency broadcast placard nearby. One comment suggested the radio should have a separate power source located nearby, in case of emergency or if the main power must be shut down. While the Coast Guard accepts the location on the bridge of a separate battery for the radios and other navigation equipment as a prudent practice, no change has been made to the rule proposed in the NPRM. Proposed § 183.310 of this SNPRM requires two power sources for some systems, not including radios. The Coast Guard solicits specific comments on separate power sources for radios.

Section 184.502 Requirements of the Federal Communications Commission

The wording in this section has been revised in this SNPRM to show that all radio installations, including but not limited to radiotelegraph, radiotelephone (MF/HF), and VHF radiotelephone, must comply with applicable FCC requirements.

Subpart F—Control and Internal Communication Systems

Section 184.602 Internal Communication Systems

Many comments noted that the requirements proposed in the NPRM are more applicable to larger vessels than to small, less complicated vessels with small engine rooms and varied layouts. Some of the comments stated that a fixed communication system would not be useful on such small vessels. The Coast Guard has determined that in the event of a loss of engine or steering control a means of communication between the pilothouse and the control station is imperative for the safe operation of the vessel. Sufficient leeway is given in the regulations to account for most vessel configurations. The OCMI can allow other means of communication under paragraph (d).

Two comments thought that this requirement should not apply to twin screw vessels. The Coast Guard agrees and in this SNPRM has revised paragraph (a) accordingly.

One comment wanted to know what is meant by a fixed 2-way system, and if hand-held radios were satisfactory. As addressed in the preamble to the NPRM, a fixed communication system means a system that is "hard wired" to the vessel. Examples would include a simple sound tube or a 3-way talk back system. Paragraph (d) does allow direct voice communication, if acceptable to the OCMI. In this SNPRM, this section has been revised to allow the OCMI to accept hand held radios.

Section 184.610 Public Address Systems

The NPRM requires installed public address systems on vessels of more than 65 feet in length. On vessels with overnight accommodations or more than one passenger deck, a public address system must be operable from the operating station. Public address systems will help the crew sound alarms, arouse passengers and distribute information, even when separated from passengers. A vessel of not more than 65 feet in length has the option of demonstrating to the OCMI that a battery powered bullhorn may satisfactorily serve as the public address system while underway. A vessel of not more than 65 feet in length carrying not more than 49 passengers has the opportunity under proposed § 184.610(a) of the NPRM to demonstrate to the OCMI that it does not need a public address system for voice announcements to be heard while the vessel is underway. Three comments

specifically stated they were in favor of the requirements as written.

One comment stated that requiring a wooden vessel with sleeping accommodations on a lakes, bays, and sounds route to have a fixed public address system would be ludicrous. The Coast Guard disagrees. Casualty data show that personnel injury and loss of life during emergencies can be reduced by use of a public address system.

One comment wanted all vessels carrying more than 12 passengers to be equipped with public address systems. The Coast Guard disagrees. Effective communications can be achieved on many vessels without a fixed public address system.

Four comments were received expressing the opinion that there should be a provision allowing OCMIs to determine the need for public address systems on small passenger vessels of more than 65 feet in length or carrying more than 49 passengers. The Coast Guard disagrees and thinks that the proposed regulations allow sufficient flexibility for different types of vessels and operations without leaving room for inconsistent application from zone to zone.

One comment was concerned that this regulation did not address systems which can selectively make announcements only in specific spaces, and that some OCMIs might not accept such a system. A selective system would meet the regulatory requirement. It would be better engineered if there were a master switch which would override the selecting switches, so that announcements could be quickly and surely made to all compartments during an emergency. New installations should have a master switch, which will make the system more acceptable to the OCMI, but it is not required. No changes were made to the rule proposed in the NPRM as a result of this comment.

One comment suggested that more specific voltage, power and transformer requirements be added for public address system construction. The Coast Guard disagrees. Coast Guard regulations are performance oriented, not construction based. This allows the designer to construct an effective system as economically as possible.

One comment stated that a marine loudhailer should be used in lieu of a bullhorn. The Coast Guard disagrees. A bullhorn, if audible throughout the required spaces, would meet the requirements of the proposed rule. No changes were made to the rule proposed in the NPRM.

One comment stated that a public address system is not needed on crew boats. The passengers are normally professionals and a public address system normally exists for the exterior of the vessel. The Coast Guard disagrees. Passengers, regardless of profession, are not members of the crew. Experienced offshore oil field workers may not need some of the items required for "off the street" passengers, but the Coast Guard considers a public address system necessary for the safety of the passengers.

The Coast Guard has rewritten this section for this SNPRM to make the intended requirements more clear. One change was made to indicate that the public address system must be audible during normal operating conditions. Normal operating conditions means that the vessel is underway with all normal machinery operating.

Subpart G—Miscellaneous

Section 184.704 Marine Sanitation Devices

This section of the NPRM reminds small passenger vessel owner/operators about the requirements in 33 CFR part 159, that all vessels operating on the waters of the United States and having installed toilet facilities must have a Marine Sanitation Device (MSD). Under these regulations, a portable toilet which is permanently secured to the vessel is considered to be installed and must be able to function as a Type III MSD or be connected to a Type I or II MSD.

One comment stated that this section conflicted with § 177.840 of the NPRM, which allowed portable toilets. Section 177.840, which has been removed in this SNPRM, allowed certain vessels to permanently install portable toilets. Once installed, they must meet the MSD requirements. No change has been made to the rule proposed in the NPRM.

Section 184.710 First Aid Kits

The NPRM required a Coast Guard approved First Aid Kit, or a kit with equivalent contents, to be carried on all vessels. One comment supported the NPRM.

One comment wanted to know if this requirement applied to existing vessels. A section in the introductory portion of this preamble specifically discusses the applicability of proposed rules to existing vessels. Each part of proposed subchapters T and K begins with a section concerning applicability. Unless the applicability section exempts existing vessels or allows a time interval before compliance is mandatory, the regulation applies to all vessels covered by the section as soon as it is effective. In the absence of specific exemptions or delays for existing vessels, each regulation applies to all vessels as soon as it is effective. In this case, under § 184.115(c) an existing vessel need not have a first-aid kit until one year after the regulations become effective.

Another comment wanted specific equipment to be listed for vessels of not more than 65 feet in length, including special items for fishing and dive boats. The Coast Guard agrees that it would be prudent for a small passenger vessel to carry any equipment considered necessary for important emergencies which will frequently occur, but does not concur that a special First Aid Kit should be required for each vessel type. The Coast Guard's intent is that standard emergency first-aid equipment be on hand to treat minor injuries which will routinely occur aboard most vessels. No changes were made to the regulations proposed in the NPRM.

Section 184.720 Emergency Equipment

The NPRM required vessels with overnight accommodations for more than 49 passengers to carry the emergency equipment required by subchapter H. The vessels to which this section would have applied are above the proposed breakpoint requiring compliance with new subchapter K. Many of these vessels will also be above the proposed breakpoints which would require them to comply with subchapter H. The Coast Guard does not consider the amount and level of emergency equipment required by subchapter H necessary on the few vessels which would have been required to have the equipment by the NPRM, but which will be below the proposed breakpoint for compliance with subchapter H. Therefore, this section is deleted in this SNPRM.

Part 185—Operations

Subpart B—Marine Casualties and Voyage Records

Section 185.202 Notice of casualty

One comment correctly pointed out an error on page 4415 of the NPRM preamble, stating that an injury resulting in incapacitation for more than 72 hours must be reported. This provision was changed in a separate rulemaking published in the **Federal Register** (53 FR 47077) on November 21, 1988. A report is now required for an injury which requires professional medical treatment beyond first-aid or, in the case of a person engaged or employed on board a vessel in commercial service, for an injury which renders the individual unfit to perform routine vessel duties. This requirement, presently contained in 46 CFR 4.05–1, was correctly stated in § 185.202(e) in

the NPRM and has been retained in this SNPRM.

One comment stated that the injury reporting criterion in § 185.202(e) in the NPRM is vague and will lead to reports of casualties that are not significant and will place an administrative burden on the Coast Guard and industry. The Coast Guard recognizes the concerns regarding the revised reportable injury criterion, which is presently contained in 46 CFR 4.05–1. Alternative wording is being considered for a future revision to 46 CFR part 4.

One comment suggested the addition of collisions as a reportable casualty even when any resultant damage is valued at less than $25,000. The Coast Guard disagrees. The Coast Guard's marine casualty reporting criteria were amended in the early 1980s after lengthy study and public comment, with the lower limit for property damage increasing from $1,500 to $25,000. Some of the reasons for doing so were to narrow the Coast Guard's focus on more significant accidents as a means of measuring safety trends, to reflect the increased cost of marine repairs, and to reduce the paperwork burden on the reporting public. In view of these factors, reverting back to a lower damage limit for any or all classes of vessel casualties would serve little purpose and could not be justified. Existing criteria requires a report of any incidents which affect seaworthiness of a vessel. Many collisions, even where resulting damages less than $25,000, would still need to be reported.

Section 185.204 Substance of Marine Casualty Notice

One comment stated that the name of the person in charge of the vessel involved in a casualty should be included in § 185.204. The Coast Guard has concluded that the provisions of § 185.206, which require the timely submission of a written report on form CG–2692, are sufficient for identifying the operator of a vessel involved in a casualty.

Section 185.207 Alcohol or Drug Use by Individuals Directly Involved in Casualties

This section has been renumbered as § 185.210 in this SNPRM and contains requirements for determining and documenting alcohol or drug use by individuals involved in a casualty requiring reporting under § 185.202. The requirements of this section are identical to those in 46 CFR 4.05–12 and are repeated for the sake of convenience.

One comment stated the section should be revised to reflect changes in the final rules concerning drugs which was published in the **Federal Register** of 21 November 1988 (53 FR 47044). While the final rule did not change 46 CFR 4.05–12, there were new requirements for mandatory chemical testing following serious incidents involving vessels in commercial service. Due to their length and complexity, the specific requirements for such testing are not repeated in the proposed small passenger vessel subchapters. However, this SNPRM does contain a new § 185.212 (K–§ 122.212) to remind marine employers of their obligations under the new requirements in 46 CFR, part 4, subpart 4.06.

Section 185.208 Damage to Pressure Vessel

One comment stated that this section, which requires the reporting of damage to boilers or unfired pressure vessels, was not necessary. The Coast Guard disagrees. This section is included to ensure that the Coast Guard becomes aware of failures of pressure vessels and boilers which did not result in a serious enough casualty to report under § 185.202. Reports under this section need not be in writing. This section was incorporated into the NPRM from § 78.33 of subchapter H. The requirement to report pressure vessel or boiler failure which renders further use of the unit unsafe is applicable to all vessels, and has been retained in the SNPRM.

Section 185.220 Records

Two comments stated that an owner should not be required to keep the records under this section. The Coast Guard disagrees. This section is adopted verbatim from existing § 4.05–15 and is repeated in Part 185 for convenience. The section does not require that any new information be recorded, but only that the owner or a representative retain any records or information which is normally recorded or maintained by the vessel if it is involved in a casualty, so that such records or information might be used in any investigation.

Section 185.240 Reports When State of War Exists

Section 185.240 in the NPRM, adopted verbatim from § 4.05–25, requires that special care be taken when communicating information about casualties in time of war. One comment recommended this section be deleted. The Coast Guard agrees and has not included the section on reports during a state of war in this SNPRM. The section would need to be expanded during actual time of war. Since existing § 4.05–25 provides a sufficient base for promulgating any new regulations on the topic and it is also applicable to small passenger vessels, the section can be deleted from Part 185 without detrimentally affecting the goal of a self-contained subchapter.

Subpart C—Miscellaneous Operating Requirements

Section 185.304 Navigation Underway

This section was adopted from 33 CFR 164.11 as a result of a NTSB recommendation. The section mandates safety procedures which most masters routinely perform and which are considered to be prudent seamanship.

Three comments objected to the section, stating that the Coast Guard has sufficient authority to address crew performance by taking penalty action or initiating Suspension and Revocation Proceedings in the event of a casualty. They believed it could be implied that a person might not be responsible if a casualty occurred as a result of a navigational error other than one of the listed requirements. The Coast Guard disagrees. The preamble in the NPRM does state that the section contains requirements "designed to ensure the safe navigation of a vessel." However, compliance with the requirements of this new section, as with all regulations, does not guarantee the safe navigation of a vessel. The proposed section will help ensure that masters are aware of many of their critical responsibilities. Proposed §§ 185.100 and 185.370, as well as existing §§ 15.401 and 15.405 of the manning requirements in 46 CFR, also contain general requirements concerning the safe navigation of a vessel as well as other prudent practices which are not specifically listed in this section.

One comment stated that the section was copied from 33 CFR 164.11 without regard to its appropriateness to small passenger vessels. The Coast Guard disagrees. Several changes were made to the requirements of 33 CFR 164.11 to make them relevant to small passenger vessels. The applicability of this section to small passenger vessels also varies. This is reflected by provisions such as the one in paragraph (a)(2), which states that the person navigating the vessel needs to know certain items, such as gyrocompass error, only "when necessary" for the vessel on its present voyage.

One comment stated that applicants for a license as master or mate of a vessel of 100 or less gross tons were not required to be able to determine the state of the tide for any given location or time, as required by paragraph (a)(2). The Coast Guard disagrees. The state of the tide includes whether it is falling or

rising, how low or high it is going to get, and the resulting tidal currents which will occur. For these licenses an applicant is tested on the ability to determine, for all reference and subordinate stations: (1) the time and height of tide at high and low water; and (2) the times and velocities of the resulting minimum and maximum currents.

One comment questioned the need to know magnetic compass deviation and how to use it, as required by paragraphs (a)(2)(i) and (b)(5), if a current deviation card was not required to be aboard. Deviation cards are discussed under § 184.402. Some vessels do have deviation cards, although they are not required. It is important for all persons directing the movement of a vessel to understand how a magnetic compass works, what errors or inaccuracies it is subject to, and how to use one as well as possible. These requirements have been changed to show that they would not apply if the vessel does not possess the necessary equipment.

Section 185.306 Passengers Excluded From Operating Station

Numerous comments specifically objected to the provisions of this section in the NPRM which prohibits passengers from entering the operating station, i.e., pilothouse, of a vessel carrying more than 150 passengers or with overnight accommodations for more than 49 passengers. Many comments recommended that passengers be prohibited in the pilothouse only in hazardous situations. Three comments recommended that passengers be excluded from the operating station on any vessel regardless of the number of passengers carried.

Proposed § 185.306 was adopted from § 78.10–1 of subchapter H, and was included in the NPRM upon the specific recommendation of the NTSB (M–86–68) following a collision between the passenger vessel MISSISSIPPI QUEEN and the towboat CRIMSON GLORY. When this casualty occurred a passenger was in the pilothouse of the MISSISSIPPI QUEEN. Although there is no specific evidence that the passenger's presence contributed to the casualty, it was a potential distraction to the navigating crew and a violation of § 78.10–1. NTSB recommended that, where practical, passengers also be prohibited from the pilothouse of small passenger vessels while underway to minimize distractions.

The Coast Guard agrees that the navigating crew could also be distracted by passengers in the pilothouse of a small passenger vessel. On numerous small passenger vessels there is no physical separation between the operating station where the vessel's controls are located and where passengers stand or sit. In such cases, casualty history shows that masters have successfully used their skills and authority to minimize distractions which may result in unsafe navigation.

As testified to by numerous small passenger vessel owners, an important part of a cruise for many passengers is a visit to the pilothouse while underway. Consequently, many owners allow passengers in the pilothouse while underway, under controlled circumstances. Also, there is little evidence to support a complete ban of passengers in pilothouses which are separated from passenger accommodations.

In consideration of the above, the Coast Guard is proposing in this SNPRM to remove § 185.306 from subchapter T, but to leave a revised section in subchapter K (K § 122.306). This section would prohibit passengers in the operating station in certain circumstances where the Coast Guard considers it vital that the navigating crew is not distracted to any extent. An additional paragraph has been added to the revised section to allow persons such as marine inspectors and Sea Scouts to be in the operating station when specifically allowed by the master.

Section 185.352 Ventilation of Gasoline Machinery Spaces

One comment stated that vessel movement and/or operation of machinery should cause enough air flow while machinery was operating that the requirement in paragraph (2), to have the exhaust fan run continuously, was not necessary. The comment further noted that the vapor detector would provide warning of problems. The Coast Guard agrees that this requirement is not necessary and has removed it in this SNPRM.

Section 185.356 Carriage of Hazardous Materials

The proposed rule states that a vessel must not be used to transport a hazardous material listed in 49 CFR 172.101 in commerce unless that material is handled and transported in accordance with 49 CFR parts 171 through 176 which contain the package hazardous materials regulations.

One comment said that the carriage of a hazardous material listed in 49 CFR 172.101 should be permitted only if the material is packaged on a vehicle or rail car in accordance with 49 CFR part 171 to 174 and 49 CFR part 177. In addition, the comment said that no hazardous material should be permitted to be transported by a vessel without appropriate personnel accompanying the shipment, and no passengers should be permitted on board.

The Coast Guard disagrees with these comments. The Hazardous Materials Regulations, 49 CFR 171–179, already contain specific requirements concerning which hazardous materials may or may not be carried on vessels carrying passengers as well as specific requirements which apply to the packaging, handling, and stowage of hazardous materials. The text of § 185.356 is merely a restatement of the applicability of the hazardous materials regulations to vessels regulated under subchapter T and does not alter these regulations or their applicability. In order to be more precise and consistent with similar language in other subchapters, the Coast Guard is changing the reference in § 185.356 in this SNPRM to 49 CFR part 171 through part 179 since requirements in parts 177, 178 and 179 also may be applicable.

Subpart D—Crew Requirements

Section 185.420 Crew Training

This proposed section would require that upon first being employed and at least once every two months, each crew member on any small passenger vessel be instructed about the individual duties that the crew member is expected to perform in an emergency. This section was developed because of casualties which may have been less severe had crew members been better prepared for an emergency. Two comments specifically supported the proposed requirement. Two comments stated that there should be a requirement for refresher first-aid and Cardiopulmonary Resuscitation (CPR) courses. First-aid and CPR training is now required by 46 CFR part 10. All licensed officers are expected to know basic first-aid. CPR refresher courses were previously discussed in the **Federal Register** of 4 January 1989 (54 FR 132), which contained the final rules entitled Licensing of Maritime Personnel.

Subpart E—Preparations for Emergencies

Section 185.502 Crew/Passenger List and Voyage Plan

This proposed section in the NPRM would require recording the names of all passengers and crew on vessels on oceans, coastwise, and Great Lakes voyages, vessels with overnight accommodations making overnight

voyages, and vessels on foreign voyages. The requirement is based on 46 U.S.C. 3502 as well as recommendations resulting from both NTSB and Coast Guard casualty investigations, and is discussed in the preamble for the NPRM. The law is presently in effect although implementing regulations have not yet been developed.

The Coast Guard received numerous comments opposing all or part of the requirement proposed in the NPRM. Some comments stated that casualty data does not justify the time or expense. Other comments reported the difficulty in recording names during short turn around periods and that requesting names would annoy and frighten passengers. Several comments wanted specific exceptions from the requirement for certain type vessels while many stated that vessels on the Great Lakes should not have to maintain the required list, as it is not required by law for most Great Lakes vessels.

The Coast Guard estimates that this proposed rule imposes a significant cost of over $1 million annually. However, it implements existing law, and as detailed in the NPRM preamble, several casualties have occurred in which the information required by the proposed section would have greatly assisted the ensuing search cases. All the casualties suggesting the need for a list involved vessels carrying passengers on fishing trips on oceans or coastwise routes. In an effort to reduce this cost to the industry, and stay strictly within the statutory requirements of 46 U.S.C. 3502, the Coast Guard has revised the SNPRM by deleting the passenger list requirement for vessels on overnight voyages not involving oceans or coastwise routes.

Further, the Coast Guard agrees that the casualty record and the type of operations of most vessels on the Great Lakes do not justify the cost of maintaining crew and passenger lists. Therefore, § 185.502 has been revised in this SNPRM by deleting the general requirement for passenger lists for most vessels on Great Lakes voyages, unless specifically mandated by 46 U.S.C. 3502. As proposed, most vessels on Great Lakes voyages would only need to maintain a passenger count in accordance with § 185.504. Owners of vessels operating on coastwise and ocean routes would still be required to maintain a list as required by 46 U.S.C. 3502.

Some comments questioned the need for keeping a list of persons who embark and disembark from the applicable vessels. This provision of the regulation cannot be changed because it only reiterates the law which states "The owner * * * shall keep a correct list of passengers received and delivered from day to day * * *".

Some comments were concerned that passengers might consider a requirement for recording their name as an invasion of privacy and might give false names. The Coast Guard disagrees. Passenger manifests are routinely maintained by the airline industry without significant problems.

The primary intent of the crew and passenger list requirement is to provide a list of persons aboard a vessel for emergency use by search and rescue personnel. Therefore, paragraph (b) of § 185.502 would require that the list be deposited ashore before the vessel departs its berth to begin a voyage. Two comments were concerned that this requirement would significantly interrupt schedules. The Coast Guard acknowledges that the requirement would impose a burden on operators but believes the burden will be reduced as resourceful operators develop systems to record names.

The list may be hand-carried ashore or transmitted by radio or other electronic means. It may be deposited ashore in a well-marked lock box at the vessel's departure berth, at an office readily identifiable with the vessel, at a nearby port captain's office, or at another location of which the owner notifies the OCMI. An operator could hand deliver an initial list ashore and call in by radio any last minute walk-on passengers.

One comment recommended that the required list be attached in a watertight case to the vessel's EPIRB for use in an emergency. The Coast Guard disagrees with this proposal because the vessel's EPIRB may not be recoverable, making any attached list useless.

Further, the Coast Guard believes that the information required by this proposed regulation might be satisfied by a count rather than a list that includes the names of the passengers. Any additional safety benefits from collecting names may be very small as compared with the cost of preparing a passenger manifest. At this juncture, however, the Coast Guard has not been able to structure the rule so as to satisfy its interpretation of legal requirements in a way that would limit the information requirements to a count of passengers as opposed to a manifest.

Paragraph (b) of § 185.502 has been revised in this SNPRM by adding a new requirement that the master of a vessel required to make a crew and passenger list also complete a voyage plan to be deposited ashore with the list. The voyage plan requirement is based on NTSB recommendation M–90–16, issued after the sinking of the inspected vessel COUGAR off the coast of Oregon on September 16, 1988. This casualty resulted in the deaths of four persons. If the master of the COUGAR had filed a voyage plan, the deaths might have been prevented and the costs of the extensive search and rescue effort greatly reduced. There have been other similar cases in the past. The Coast Guard concurs with the need for voyage plans. Since all prudent masters presently file a voyage plan, the additional cost imposed by this new requirement is insignificant.

Section 185.504 Passenger Count

This section requires that the master of a vessel must keep a correct count of all passengers received and delivered if not required to make a crew and passenger list under § 185.502. One comment stated that the proposal does not consider vessels on short voyages where the passenger count is done by the ticket office, not the master. As written in the NPRM, § 185.504 repeats almost verbatim the statutory requirements of

The corresponding control numbers are displayed in proposed §§ 114.900 and 175.900 of this SNPRM.46 U.S.C. 3502(b). Therefore, the provisions of the requirement cannot be made less stringent regardless of voyage length. The regulation and the law states that the master shall keep the count of passengers since the master is primarily responsible for the safety of the vessel and its passengers. However, the count may be taken by other persons and maintained in a written record on shore providing the master ensures the count is made and recorded. The count may be made by ticket sales, a turnstile, physical count, or other acceptable means.

One comment implied that a count is usually not needed because boats are rarely filled to capacity. The Coast Guard disagrees. The passenger count is valuable information in search and rescue cases as well as in determining whether the number of passengers exceeds the number allowed by a vessel's COI.

One comment stated that requiring a passenger count is appropriate and is what the law intends. Another comment stated that a written record of the count should be maintained on shore prior to getting underway. The Coast Guard believes that it is a prudent practice for masters to leave behind voyage plans which include the number of passengers aboard. In fact, the count would be of little use to emergency rescue personnel unless it was left ashore when the vessel departed. Therefore, this section would

require that the count be left ashore before the vessel departs. Any of the means acceptable for leaving behind a passenger list, as discussed under § 185.502, would be acceptable for leaving behind a passenger count.

Section 185.506 Passenger Safety Orientation

This section in the NPRM requires that an audible announcement must be made to the passengers about safety procedures and equipment aboard the vessel before getting underway. In response to recommendations following several casualties where passengers were provided with little or no information regarding emergency procedures or equipment, the proposed requirement expands the present requirement for a safety orientation in § 185.25–1. The preamble in the NPRM provides detailed background on the proposal.

Three comments supported the proposed requirement as written. Many comments were also received opposing any audible announcement requirement or requesting specific changes to the requirement. Two comments stated that announcements should be allowed to be made after a vessel has gotten underway as is done on aircraft. The Coast Guard disagrees with this proposal. One of the most hazardous portions of a voyage for some vessels may be as the vessel first gets underway and enters a busy waterway. Due to other distractions, including engine noise, it may also be more difficult to get the full attention of passengers after getting underway. By way of comparison, safety briefings are required to be given on passenger carrying airplanes before each takeoff, in accordance with 14 CFR 121.571 and 121.573.

One comment questioned the need to tell passengers how to don lifejackets. The Coast Guard disagrees. In an emergency situation many people panic. The situation may be intensified for passengers unfamiliar with lifejackets which they may have to don rapidly. Lifejackets have different means of fastening. The regulation requires a demonstration of the proper donning of a lifejacket only for a vessel on an ocean or coastwise voyage. Although demonstrations on other vessels are encouraged, announcements may be limited to simple verbal instructions on donning a lifejacket with reference to the lifejacket placard which would be required by proposed § 185.516.

Paragraph (a)(6) of the NPRM required that the safety orientation include an announcement that passengers would be required to don lifejackets in hazardous situations, but may also don jackets wherever they desire. One comment requested that paragraph (a)(6) be revised so that unruly passengers do not abuse lifejackets. The Coast Guard agrees that some unruly passengers may playfully don lifejackets and possibly damage them. The provisions allowing passengers to don lifejackets whenever they desire was included because of complaints that some masters have prohibited passengers from wearing jackets. To address the comment, the Coast Guard is proposing in this SNPRM to delete the requirement for an announcement about the voluntary donning of lifejackets, but to revise proposed § 185.508 to require that a passenger desiring to wear a lifejacket must be allowed to do so. Existing civil law concerning destruction of property may be used to control abuse of lifejackets.

Five comments stated that passengers will either ignore announcements or forget information passed in announcements that are too detailed. The Coast Guard acknowledges that a certain percentage of passengers will not pay attention to or or will not be able to retain the information passed during a safety announcement. However, verbal announcements will better assure that most passengers are aware of basic emergency procedures and will know where to find posted placards which will help to remind passengers of safety concerns during a voyage.

Several comments expressed concerns that the proposed requirement does not recognize differences between types of vessels or different routes, and stated, among other things: Ferry and crew boat passengers are usually repeat customers; ferries often have short turn around times which makes it difficult to make an announcement; and on car ferries many people sit with car engines running and windows rolled up for heating or air-conditioning purposes.

Although some vessels such as ferries and crew boats may primarily carry repeat passengers, on most voyages there will be some passengers unfamiliar with the vessel's applicable emergency procedures or safety equipment. As on aircraft, it is therefore important that a safety orientation be conducted prior to each voyage. The Coast Guard recognizes that there is a difference in the type of information which needs to be presented on individual vessels. Paragraph (a) of § 185.506 states that passengers shall be informed of the listed information "when applicable."

The Coast Guard realizes that adequately broadcasting just the listed applicable information on some vessels, such as ferries on short-voyages with rapid turn around times, may be difficult. Even with vehicle motors turned off as required by existing § 185.20–20(b) and proposed § 185.340(b), occupants of vehicles may still have difficulty hearing verbal announcements due to vessel noises, rolled up windows, or echoing. To address these concerns the Coast Guard is proposing alternative safety announcements for vessels on inland routes where history shows a reduced risk of a casualty occurring. However, the need remains for a complete audible safety announcement for vessels on oceans and coastwise routes as provided for in the NPRM.

This SNPRM revises § 185.506 by allowing the master of a vessel on other than an ocean or coastwise route to make an abbreviated safety announcement, providing that printed cards or pamphlets supplementing the verbal announcements are hand delivered to each passenger prior to departure or are located near each seat on a vessel for which there are seats for every passenger. A marine inspector may review any safety orientation cards or pamphlets for adequacy during a routine inspection.

In response to a comment received from the NTSB, this SNPRM adds a new paragraph (d) to § 185.506, requiring that passengers on voyages of more than 24 hours duration be requested to don a lifejacket and go to their embarkation station during the safety orientation. Although the Coast Guard does not agree that the master can require passengers to participate in such activities, passengers should be encouraged by the crew to don a lifejacket and go to their muster station. This proposed paragraph is further discussed in this preamble under § 185.520.

Section 185.508 Wearing of Lifejackets

This section would require that the master ensure that passengers don lifejackets under certain conditions. This requirement was proposed based on recommendations made by the NTSB. The preamble in the NPRM contains a detailed discussion. In response to the NPRM, the NTSB urged adoption of the proposed rule stating that although the proposal does not specifically comply with their recommendations, a reasonable interpretation of the proposed rule would require the wearing of lifejackets at times of greatest concern. One comment stated that the wearing of lifejackets in any situation short of imminent danger can cause needless apprehension among passengers. Based on casualty history, the Coast Guard has

determined that lifejackets should normally be worn by passengers in the conditions listed in the NPRM. Passengers should be aware when there is a heightened need for safety. To minimize apprehension passengers may be informed that although no problems are expected, wearing of lifejackets under the existing conditions is a required safety precaution, just as the wearing of seat belts in an automobile is often required for their own safety.

One comment stated that this section should specify that a passenger desiring to wear a lifejacket be allowed to do so. The Coast Guard agrees and as discussed under § 185.506 in this preamble, has added new § 185.506(c) in this SNPRM.

Section 185.516 Lifejacket Placards

Paragraph (a) of this section in the NPRM requires that lifejacket instruction placards be posted in conspicuous places aboard each vessel, and paragraph (b) specifically requires that such placards be posted in each passenger cabin or stateroom on a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers. The one comment on this section suggested posting placards in each cabin and stateroom regardless of the number of overnight accommodations or length of a small passenger vessel. The Coast Guard disagrees. The proposal is adequate to ensure that passengers have ample opportunity to see the placards and study proper donning methods on smaller vessels with overnight accommodations for not more than 49 passengers (vessels which are proposed by this SNPRM to be regulated by Subchapter T). Under this SNPRM, only vessels regulated by Subchapter K would be required to have lifejacket placards in each overnight accommodation space.

Section 185.518 Inflatable Liferaft Placards

The NPRM proposed that every vessel with inflatable liferafts have instruction placards posted in conspicuous places. Two comments suggested that this section be broadened to include inflatable buoyant apparatus, since they are launched and used in virtually the same way as inflatable liferafts. The Coast Guard agrees with the comments and the section has been broadened in this SNPRM to include all inflatable survival craft. Although specific placards are not yet issued for inflatable buoyant apparatus, the Coast Guard is considering this approach. Until such placards have been approved, any instruction card acceptable to the OCMI will be satisfactory.

Section 185.520 Abandon Ship and Man Overboard Instructions and Drills

Section 185.520 in the NPRM proposes that the master be required to conduct sufficient drills and give sufficient instructions to ensure that all crew members are familiar with their duties in an emergency. Paragraph (b) proposes specific drill frequency and crew participation requirements for certain vessels. Paragraph (c) specifies what an abandon ship drill must consist of including the summoning of passengers on a vessel on an overnight voyage to muster stations. The corresponding existing section in subchapter T, § 185.25–10, only requires that drills on small passenger vessels be held and instructions provided to ensure all crew members are familiar with their duties. The provisions of the proposed section were developed in response to casualty investigation results, including a specific recommendation (M–86–060) in the NTSB report on the PILGRIM BELLE grounding. In its report the NTSB recommended that fire and boat drills which include passengers reporting to muster stations be required within 24 hours of departure on cruises that are more than one day's duration.

In response to the NPRM, the NTSB commented that the proposed section is inadequate and urged revision of it to better comply with its recommendation M–86–060. The Coast Guard concurs with the intent of the NTSB recommendation that passengers aboard vessels on 24 hour voyages have experience with both donning a lifejacket and with knowing where to go in an emergency. Ideally, passengers on all vessels should be exposed to such training. However, for small passenger vessels on short voyages, actually requiring passengers to participate in drills would be impractical due to time and space limitations. To ensure passengers on 24 hour voyages are familiar with donning a lifejacket and finding their embarkation station, the Coast Guard is proposing in this SNPRM to make such a requirement part of the safety orientation required by § 185.506.

The Coast Guard is also proposing in this SNPRM to revise paragraph (a) of this section to emphasize that the section is primarily requiring instructions and drills for emergencies involving abandon vessel situations and the recovery of persons who have fallen overboard. This section emphasizes that man overboard drills must be held on all vessels. Such drills are necessary regardless of whether a rescue boat, a special platform, or the vessel itself is used for the recovery. Proposed § 185.420 already contains a general requirement for the instruction of crew members on their expected duties in a variety of emergencies.

Paragraph (b) only requires that vessels with more than four survival craft and vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers conduct a minimum number of drills. Instead of using "four survival craft", the Coast Guard proposes in this SNPRM to require that vessels carrying more than 150 passengers or having overnight accommodations for more than 49 passengers (i.e., those vessels proposed to be regulated by subchapter K) conduct the prescribed minimum number of drills. A minimum number of drills on vessels carrying not more than 150 passengers or with overnight accommodations for not more than 49 passengers (proposed to be regulated by subchapter T) has not been proposed in this SNPRM since the need for routine drills varies more on smaller vessels, depending on the size and turnover of the crew, the service provided, route, and other factors. As the number of passengers grows larger, such as over 150, it becomes more difficult for the crew to handle passengers in an emergency and the number of survival craft increases making it more difficult for the master to direct an evacuation.

Paragraph (c) (now (b) in the SNPRM) lists the minimum tasks with which all crews should be familiar in preparation for an abandon ship situation. One comment stated that these requirements should only be applicable to large overnight vessels. The Coast Guard disagrees. Any size vessel might need to be abandoned. The details of the drills and actual time necessary to conduct an adequate drill obviously vary significantly based on a vessel's size, design, crew, and other factors. Some tasks such as summoning passengers or deploying survival craft may have to be simulated.

Paragraph (e) (now (d) in the SNPRM) of this section in the NPRM states that each rescue boat must be launched and maneuvered during a man overboard drill once each month, if practicable, but not less than every three months. Some comments pointed out that since some small passenger vessels are not required to have rescue boats, they would not need to conduct the proposed periodic drill. The Coast Guard agrees and has revised this SNPRM to clarify that periodic drills with a rescue boat are only required when a rescue boat is carried.

One comment stated that the provisions of paragraph (e) should be changed to reflect the fact that some vessels are only operated seasonally. The Coast Guard agrees and has revised paragraph (e) in this SNPRM.

Paragraph (f) (now (e) in the SNPRM) of this section requires onboard training for davit-launched liferafts at least every 4 months on vessels so equipped. The Coast Guard does not expect that many davit-launched rafts will be installed on small passenger vessels. However, paragraph (f) was proposed due to the additional crew training necessary on vessels whose owners decide to install davit-launched liferafts as an optional means of complying with the survival craft requirements in this SNPRM. One comment stated that the inflating and lowering of such a liferaft or the purchase of a special training raft is not a no-cost item as indicated by the regulatory evaluation. The Coast Guard acknowledges that the subsequent servicing and packing of any inflatable survival craft is expensive. However, the proposed regulation does not require the actual inflation and lowering of the raft but only states that it should be done when practicable. A special training raft is also not required although it is recommended for instruction. To provide better training and significantly reduce any expense that is involved with the deployment of any inflatable survival craft, such craft could be inflated as part of instructions or drills prior to having the required annual servicing completed on the craft, or before the CO2 bottle for the craft has to be tested and refilled (hydrostatic tests are required every five years, and are done at the annual servicing after the due date).

One comment stated that drills should never be held with passengers aboard. The Coast Guard disagrees. It is preferable that drills be held whenever possible with passengers aboard to provide realistic training. Large, ocean-going cruise ships routinely hold drills in which passengers willingly participate, giving crew members training in the handling of persons unfamiliar with the vessel. However, the Coast Guard realizes that passengers are not required to participate in such drills. Paragraph (c) (now (b) in the SNPRM) only requires that passengers be summoned during an abandon ship drill and that the crew practice how to handle passengers during an emergency. Under the NPRM few vessels would actually have to conduct drills when passengers are aboard, although it is recommended. The summoning of passengers may be simulated as part of the drill if passengers are not aboard.

One comment stated that charterers would cancel trips if they were delayed because of having to hold drills. The Coast Guard disagrees. Such cancellations are doubtful if, by regulation, all vessels in a certain service are subject to the same safety requirements.

Section 185.524 Fire Fighting Training and Fire Drills

This section requires that the master conduct such fire drills as are necessary to make sure that all members of the crew are familiar with their duties in case of a fire, that each fire drill include the summoning of passengers on a vessel on an overnight voyage, a demonstration of the crews' assigned duties during a fire, and instruction in the use of fire fighting equipment on board.

The NTSB stated that the requirements proposed in the NPRM are inadequate and urged revision of the NPRM to comply with NTSB Recommendation M–86–060. NTSB Recommendation M–86–060, made as a result of the PILGRIM BELLE grounding, recommended that during fire drills on vessels on cruises of more than 24 hours duration, passengers report to their emergency muster stations. The Coast Guard's opinion on the reporting of passengers to muster stations during drills was discussed in this preamble under § 185.520. The Coast Guard agrees that fire drills should be held at regular intervals on vessels carrying a large number of passengers and, in this SNPRM, is proposing weekly fire drills for vessels to be regulated by subchapter K.

One comment stated that fire drills and abandon vessel drills should be held at random and not in a set order so that crews are better prepared. The Coast Guard agrees and has added an appropriate requirement in this SNPRM to the fire drill section of proposed subchapter K.

Section 185.602 Hull Markings

The rule proposed in the NPRM would establish requirements for either draft marks or maximum loading markings. One comment endorsed the requirement for draft marks, noting an old requirement for them on small passenger vessels over 50 GT. This comment opposed maximum loading marks because the maximum allowable draft and trim is not well defined. The comment noted that draft marks facilitate any stability test. The Coast Guard finds that, for safety, marks are needed to help the operator ascertain compliance with the vessel's stability letter. Conventional draft marks are not necessary, although they are preferable. Maximum loading marks have proven to work well with the Load Line Convention. Maximum draft and trim are well defined in the stability letter and are based on the loading conditions shown by the owner to comply with the applicable stability criteria. The rule proposed in the NPRM has not been changed.

One comment suggested clarifying that if the vessel is issued a load line it will have load line marks. The Coast Guard agrees. The midship marks required by the Load Line Convention take precedence over the marks described in this section. In paragraph (d) this SNPRM reflects that, if the vessel has a load line, the midship marks will be those required by the International Load Line Convention.

Subpart F—Markings Required

Section 185.604 Lifesaving Equipment Markings

The NPRM contained a number of requirements for marking lifesaving equipment with the name of the vessel and capacity (number of persons) of the equipment, and also for marking with retroreflective material. Three comments suggested requiring retroreflective material on life floats and buoyant apparatus. Manufacturers have been required to put retroreflective material on all new approved life floats and buoyant apparatus since 1983. Therefore, there is no need to repeat the requirement in this section. As older life floats and buoyant apparatus are replaced, all survival craft will eventually be equipped with retroreflective material.

Another comment suggested deleting the reference to immersion suits, since immersion suits are not required to be carried on small passenger vessels. Immersion suits are not required on small passenger vessels, but may be carried voluntarily, especially in cold water regions. It is a common practice on many vessels carrying immersion suits for a suit to be assigned to or owned by a particular crew member. This is often the case for persons who need an immersion suit other than the universal adult size. Paragraph (b) has been revised in this SNPRM to indicate that an immersion suit could be marked with the name of the person to whom it is assigned as an acceptable alternative to the name of the vessel.

Paragraph (b) has also been revised in this SNPRM to permit the temporary carriage of lifejackets which are not marked with the vessel's name. The need for this alternative was addressed in the preamble discussion of § 180.71.

Paragraph (g) has been revised in this SNPRM to allow identification of stowage locations with the symbols in IMO Resolution A.603(15), "Symbols related to life-saving appliances and arrangements", as an alternative to the use of words.

One comment suggested that arranging the retroreflective material according to an IMO recommendation, as required by paragraphs (i) and (j), should not be required retroactively. The Coast Guard has no intent to require rearrangement of retroreflective material presently on lifesaving equipment. Paragraphs (i) and (j) have been revised in this SNPRM to clarify that arrangement of retroreflective material conforming to the IMO recommendation is required only after the effective date of the final rule.

Section 185.606 Escape Hatches and Emergency Exits

This section in the NPRM repeats the requirements of the existing § 185.30–15 that emergency hatches and exits be marked with one-inch letters unless deemed unnecessary by the OCMI. One comment stated that such markings should be at least two inches high. The Coast Guard agrees that one inch markings may be inadequate in many cases and this SNPRM revises the normal height for exit sign letters to 2 inches.

Both the existing rules and this SNPRM authorize the OCMI to waive the marking requirement if the OCMI believes the marking is unnecessary, such as when a normal door serves as an obvious means of escape. Under the same provision, an OCMI could allow a reduced letter height if a particular compartment is small. As a possible guideline, NVIC 4–89, "Introduction to Human Factors Engineering," provides recommended minimum letter heights based on the viewing distance. The recommended heights were adopted from an industry standard, ASTM F 1166–88.

Section 185.115(b) has been revised in this SNPRM to include emergency exit markings in the group of markings and labels which do not have to be immediately remarked. New requirements for the size or content of markings must be followed after the existing markings are no longer legible.

Subpart G—Operational Readiness, Maintenance, and Inspection of Lifesaving Equipment

Section 185.730 Servicing of Inflatable Liferafts, Inflatable Buoyant Apparatus, Inflatable Lifejackets and Inflated Rescue Boats

This section of the NPRM proposes annual servicing of inflatable lifesaving equipment, which is already an existing requirement. Several comments opposed this requirement, primarily on the basis of its high cost. Three or four-year intervals were suggested. Different servicing intervals for inflatable liferafts will be addressed under a project entitled "Inflatable Liferafts" (CGD 85–205). The Coast Guard anticipates publishing an NPRM for that rulemaking in 1993.

Section 185.740 Periodic Servicing of Hydrostatic Release Units

This section of the NPRM proposes annual servicing of hydrostatic release units, which is the same as existing regulations. One comment suggested a three-year servicing interval because of the high cost of servicing. The Coast Guard does not agree that servicing intervals can be increased, because the performance of hydrostatic releases is adversely affected by accumulation of dirt, salt, and deterioration of rubber diaphragms and springs. They must be cleaned and checked annually. However, the Coast Guard has approved a disposable hydrostatic release which is replaced at two-year intervals. Some operators believe that the disposable device is more economical than annual servicing of conventional releases. This section has been revised in this SNPRM to provide for the use of disposable releases.

Distribution Table

The following is a distribution table indicating where existing requirements in subchapters S and T have been moved to, or if they have been deleted, by this proposal. Since subchapter T is proposed to be completely revised, all existing requirements of subchapter T are listed in this table. However, only those requirements of subchapter S actually proposed to be relocated or deleted have been listed.

In the left column of the distribution table, designated "Old Section", are listed the existing subparts, sections, or paragraphs of subchapters S and T that are being revised. In the center column, designated "New T Section", is listed the location of the proposed requirement in the revised (new) subchapter T that pertains to the existing (old) subpart, section, or paragraph. In the right column, designated "New K Section", is listed the location of the requirement proposed in the new subchapter K that pertains to the existing (old) subpart, section, or paragraph. If the Coast Guard proposes that the contents of an existing subpart, section, or paragraph be deleted, the reason for such deletion is indicated in the new section column by the words unnecessary, obsolete, or unsatisfactory.

SUBCHAPTER S

Old section	New T section	New K section
170.105(b)(1)	Unnecessary	N/A.
170.160(b)(1)	Unnecessary	N/A.
171.020	Unnecessary	N/A.
171.030(a)	178.310(a)	N/A.
171.030(b)	178.320(a)	N/A.
171.030(c),(d),(e),(f),(g),(h)	178.330(c),(d),(f),(g),(h),(i)	N/A.
171.035	178.325; 178.330(d),(e), (f)(4),(h)	N/A.
171.040(a)(1)	179.210	N/A.
171.040(a)(2)	179.212	N/A.
171.040(a)(3)	179.220	N/A.
171.040(b)	179.210	N/A.
171.040(c)	179.320(b)	N/A.
171.043	179.220	N/A.
171.110(b)	Unnecessary	N/A.
171.114	179.320(c),(d)	N/A.
171.115(b)	Unnecessary	N/A.
171.119	179.350	N/A.
171.124	179.360	116.100(b); 116.1160
171.130(b)	Unnecessary	N/A.

SUBCHAPTER S—Continued

Old section	New T section	New K section
171.140	178.410116.100(b)	116.1110
171.145	178.420; 178.450	116.100(b); 116.1120; 116.1150
171.150	178.430; 178.450	116.100(b); 116.1130; 116.1150
171.155	178.440	116.100(b); 116.1140

SUBCHAPTER T

175.01–1	175.100	114.100
175.01–3	175.900	114.900
175.05–1(a)	175.110	114.110
175.05–1(b)	Unnecessary	Unnecessary.
175.05–1(c)	175.120	114.120
175.05–1(d)	185.356	122.356
175.05–1(e)	Unnecessary	Unnecessary.
175.05–2	Unnecessary	Unnecessary.
175.05–3	175.110	114.110
175.05–5(a)–(c),(e)	Unnecessary	Unnecessary.
175.05–5(d)	175.112	114.112
175.05–15	175.200	114.200
175.07–1	175.122	114.122
175.10–1 to 175.10–40	175.400	114.400
175.15–1	175.540	114.540
175.20–1	178.400(b),(c)	115.400(b),(c)
175.20–5	176.801	115.801
175.25–1	175.550	114.550
175.27–1	175.600	114.600
175.27–5	175.600(c)	114.600(c)
175.27–20	Obsolete	Obsolete.
175.30–1	175.560	114.560
175.35–1	Unnecessary	Unnecessary.
176.01–1	176.100	115.100
176.01–3	176.100	115.100
176.01–5	176.103	115.103
176.01–10	176.105	115.105
176.01–15	176.107	115.107
176.01–20	176.110	115.110
176.01–25	176.113	115.113
176.01–27(a),(b),(c)	176.202	115.202
176.01–27(d)	176.302	115.302
176.01–30	176.204	115.204
176.01–35	176.120	115.120
176.01–40	176.302	115.302
176.01–45	176.310	115.310
176.05–1	176.400(a)	115.400(a)
176.05–5	176.402	115.402
176.05–10(a)	176.404	115.404
176.05–10(b)	Unnecessary	Unnecessary.
176.10–1	176.500	115.500
176.10–5	176.502	115.502
176.15–1	176.600	115.600
176.15–5	176.610	115.610
176.15–10	176.612(a),(b)	115.612(a),(b)
176.20–1	176.700(a),(b)	115.700(a),(b)
176.20–5	176.700(d)	115.700(d)
176.25–1	176.800	115.800
176.25–5	176.802	115.802
176.25–10	176.804	115.804
176.25–15	176.806	115.806
176.25–20	176.808	115.808
176.25–22	176.808	115.808
176.25–25	176.810	115.810
176.25–27	176.810	115.810
176.25–30	176.812	115.812
176.25–32	176.812	115.812
176.25–35	176.814	115.814
176.25–40	176.816	115.816
176.25–45	176.818	115.818
176.25–50	176.830	115.830
176.30–1	176.840	115.840
176.35–1	176.900; 176.920	115.900; 115.920
176.35–5	175.400	114.400
176.35–10	175.400	114.400

SUBCHAPTER S—Continued

Old section	New T section	New K section
176.35–15	176.910(a),(b)	115.910(a),(b)
176.35–20	176.920(d)	115.920(d)
176.35–25	176.302	115.302
176.35–30	176.910(c),(d); 176.920(d)	115.910(c),(d); 115.920(d)
177.01–1	177.115	116.115
177.01–5	177.100	116.100
177.05–1	177.202	116.202
177.05–3	177.202	116.202
177.05–5	177.210	116.210
177.10–1(a)	177.300; 177.330	116.300; 116.310; 116.330
177.10(1)(b)	177.340	116.340
177.10–5	177.400	116.400
177.13–1	Unnecessary	Unnecessary.
177.15–1	177.500	116.500
177.20–1	177.600(a),(b)	116.600(a),(b)
177.20–5	177.600(d),(e)	116.600(d),(e)
177.25–1	177.700; 177.710	116.700; 116.710; 116.730
177.30–1	177.820	116.820
177.30–7	177.400; 177.500; 177.800; 177.810	116.400; 116.500; 116.800; 116.810
177.35–1	177.900	116.900
177.35–5	177.920	116.920
177.35–10	177.940	116.940
177.35–15	177.960	116.960
180.01–1	Unnecessary	Unnecessary.
180.01–5	Unnecessary	Unnecessary.
180.05–1(a)	175.800	114.800
180.05–1(b)	Unnecessary	Unnecessary.
180.05–5(a)	180.25(a)	117.25(a)
180.05–5(b)	180.72	117.72
180.10–1(a)	180.200	117.200
180.10–1(b)	Obsolete	Obsolete.
180.10–5	180.202; 180.204; 180.206	117.202; 117.204; N/A.
180.10–15	180.204; 180.206	117.204
180.10–20	180.204; 180.207	117.204
180.10–25	180.208	117.208
180.10–30	180.200	117.200
180.10–35	180.210	117.210
180.15–1	180.175(c),(e)	117.175(c),(e)
180.15–5	180.175(f)	117.175(f)
180.15–10	180.175(f)(2)	117.175(f)(2)
180.20–1	180.130; 180.137; 180.175(f)	117.130; 117.137; 117.175(f)
180.20–5	185.604	122.604
180.25–1	180.71	117.71
180.25–5	180.71	117.71
180.25–10	180.71; 180.78	117.71; 117.78
180.25–15	185.604	122.604
180.25–20	180.71; 180.75	117.71; 117.75
180.25–25	185.604(i)	122.604(i)
180.30–1	180.70	117.70
180.30–5	180.70	117.70
180.30–10	180.70	117.70
180.35–1	180.68	117.68
180.35–5	180.68	117.68
180.35–10	180.68(e)	117.68(e)
180.40–1	180.64	117.64
181.01–1(a)	Unnecessary	Unnecessary.
181.01–1(b)	181.115	118.115
181.01–5	Unnecessary	Unnecessary.
181.05–1	175.800	114.800
181.05–5	181.120	118.120
181.10–1	181.300(a),(b),(c),(d)	118.300(a),(b),(c),(d)
181.10–5	181.610	118.610
181.15–1	181.310(a)	118.310(a)
181.15–5(a),(b)	181.310(a)	118.310(a)
181.15–5(c)	181.310(b)	118.310(b)
181.15–10(a)	181.320(a)	118.320(a)
181.15–10(b)	181.320(c)	118.320(c)
181.15–10(c)	181.320(b),(c)	118.320(b),(c)
181.15–10(d)	181.320(b),(c),(d)	118.320(b),(c),(d)
181.15–10(e),(f)	181.320(d)	118.320(d)
181.15–10(g)	181.320(a)	118.320(a)
181.20–1	181.400(a)	118.400(a)

SUBCHAPTER S—Continued

Old section	New T section	New K section
181.20–5(a)	181.400(a); 410(a)	118.400(a); 410(a)
181.20–5(b)	181.400(a)(2)	118.400(a)(2)
181.20–10	181.410(f)	118.410(f)
181.20–15(a),(c)	181.410(b)	118.410(b)
181.20–15(d)	185.612(a)	122.612(a)
181.20–20	181.410(d)	118.410(d)
181.20–25	181.410(f)	118.410(f)
181.20–30	181.410(c)	118.410(c)
181.20–35	182.460(l); 182.465(h)	119.460(l); 465(h)
181.25–1	181.400(f),(g)	118.400(f),(g)
181.25–5	181.430	118.430
181.30–1	181.500	118.500
181.30–5	181.500	118.500
181.30–10(a),(b)	181.520	118.520
181.30–10(c)	Unnecessary	Unnecessary.
181.30–12	181.500(d)	118.500(d)
181.35–1	181.600	118.600
182.01–1	182.115	119.115
182.01–5	182.100	119.100
182.05–1	182.200	119.200
182.05–5	182.220	119.220
182.10–1	182.300	119.300
182.10–5	182.310; 182.330	119.310; 119.330
182.15–1	182.400	119.400
182.15–5	182.405; 182.410	119.405; 119.410
182.15–7	182.415	119.415
182.15–10	182.420	119.420
182.15–15	182.425	119.425
182.15–20	182.420; 182.430	119.420; 119.430
182.15–25	182.440	119.440
182.15–30	182.445	119.445
182.15–35	182.450	119.450
182.15–40	182.455	119.455
182.15–45	182.460; 177.600	119.460; 116.600
182.20–1	182.400	119.400
182.20–5(a)	182.410(a)	119.410(a)
182.20–5(b)	182.410(c)	119.410(c)
182.20–10	182.420	119.420
182.20–15	182.425	119.425
182.20–20	182.430	119.430
182.20–22	182.435	119.435
182.20–25	182.440	119.440
182.20–30	182.445	119.445
182.20–35	182.450	119.450
182.20–40	182.455	119.455
182.20–45	182.465	119.465
182.20–50	182.470	119.470
182.25–1	182.500	119.500
182.25–5	182.510	119.510
182.25–10	182.520	119.520
182.25–15	182.540	119.540
182.30–1	182.610(a)	119.600
182.30–5	182.620	119.600
182.35–1	177.400(c)	116.400(c)
182.40–1	182.700; 182.720	119.700; 119.720
182.40–5	182.710; 182.720	119.710; 119.720
182.40–10	182.715; 182.720	119.715; 119.720
183.01–1	Unnecessary	Unnecessary.
183.01–5	183.100; 183.200	120.100; 120.200
183.01–10	Unnecessary	Unnecessary.
183.01–15	175.600	114.600
183.05–1	Unnecessary	Unnecessary.
183.05–5	183.320(c)	120.320(c)
183.05–10	183.320	120.320
183.05–15	183.330	120.330
183.05–20	183.350; 183.352; 183.354	120.350; 120.352; 120.354
183.05–25	183.392	120.392
183.05–30	183.380	120.380
183.05–35	183.210(b),(c); 183.410	120.210(b),(c); 120.410
183.05–40	Unnecessary	Unnecessary.
183.05–45	183.340	120.340
183.05–50	183.340; 183.370	120.340; 120.370

SUBCHAPTER S—Continued

Old section	New T section	New K section
183.10–1	Unnecessary	Unnecessary.
183.10–5	183.320	120.320
183.10–10	183.210; 183.330	120.210; 120.330
183.10–15	183.330	120.330
183.10–20	183.340; 183.410	120.340; 120.410
183.10–25	183.380	120.380
183.10–30	183.370	120.370
183.10–35	183.380	120.380
183.10–40	183.380	120.380
183.10–45(a)	184.210	121.210
183.10–45(b)	184.220	121.220
183.10–50	183.390	120.390
184.01–1	Unnecessary	Unnecessary.
184.01–5	184.100	121.100
184.05–1	184.200; 184.202; 184.240	121.200; 121.202; 121.240
184.10–1	184.300	121.300
184.20–1	184.402	121.402
184.25–1	184.502	121.502
184.30–1	183.430	120.430
184.30–5	183.432	120.432
184.35–1	184.602(c)	121.602(c)
184.40–1	180.72	117.72
184.40–5	180.72	117.72
184.40–10	180.78(b)	117.78(b)
184.40–15	176.808(a)(2),(d),(f)	115.808(a)(2),(d),(f)
185.01–1	Unnecessary	Unnecessary.
185.01–5	185.100	122.100
185.05–1	185.900; 185.910	122.900; 122.910
185.10–1	185.402	122.402
185.12–1	176.306	115.306
185.15–1	Subpart B of Part 185	Subpart B of Part 122
185.17–1	185.370	122.370
185.19–1	185.250	122.250
185.20–1	185.310	122.310
185.20–10	185.320	122.320
185.20–15	185.330	122.330
185.20–20	185.340	122.340
185.20–25	185.350	122.350
185.20–30	185.360	122.360
185.20–35	184.420	121.420
185.22–1	185.410	122.410
185.25–1	185.510	122.510
185.25–5	185.512	122.512
185.25–7	185.518	122.518
185.25–10	185.520(a); 185.524(a)	122.520(a); 122.524
185.25–15	185.530	122.530
185.25–20	185.728; 185.726(d)	122.728; 122.726(d)
185.30–1	185.602(a)	122.602(a)
185.30–5	185.604	122.604
185.30–10	185.604(g)	122.604(g)
185.30–15	185.606	122.606
185.30–20	185.608	122.608
185.30–25	185.610	122.610
185.30–30	185.604(c)	122.604(c)

Derivative Table

The following is a derivative table of the proposed and corresponding existing regulations in subchapters S and T. In the left column, designated "New Section", are proposed paragraphs, sections, and subparts of this rulemaking. In the middle column, designated "Old Section", is the paragraph, section, or subpart of subchapters S and T where the regulation listed in the left column is currently published. If the word "Revised" is included, it indicates the proposal contains a change in the current rule other than a minor change involving grammar, format, elimination of archaic language, or authority and reference citations which do not affect the basic requirements of a section. For certain new sections there are no corresponding existing sections because a new requirement is proposed by this rulemaking. These sections and subparts have the word "New" listed in the "Old Section" column. The right column, "Reference", lists sources used in developing the proposed regulations. The list of references is not all inclusive. It does not contain internal policy letters and investigation reports. Sources listed in the right column are abbreviated as follows:

(1) "CGD" means Coast Guard Regulatory Docket;

(2) "NVIC" means U.S. Coast Guard Navigation and Vessel Inspection Circular;

(3) "MSM" means the U.S. Coast Guard Marine Safety Manual;

(4) "IMO" means the International Maritime Organization's Code of Safety for Dynamically Supported Craft;

(5) "SOLAS" means the International Convention for the Safety of Life at Sea, 1974, as amended; and

(6) "Subch." means the specified subchapter from Chapter I of Title 46 of the Code of Federal Regulations.

Other abbreviations include references listed in § 175.600 of the proposed regulations. Individual numbers listed refer to specific sections in Title 46 of the Code of Federal Regulations unless preceded by another title designation.

SUBCHAPTER S

New section	Old section	Reference
170.055(h)(1)	New	
170.055(v)	New	46 U.S.C. 2101.
170.010(e), (m), (o)	New	46 U.S.C. 2101.

SUBCHAPTER K

114.100	175.01–1(a), Revised	
114.110	175.05–1; 175.05–3, Revised	46 U.S.C. 3301–3303.
114.112	175.05–5(d), Revised	
114.120	175.05–1(c)	
114.122	175.07–1	46 U.S.C. 5102.
114.200	175.05–15	
114.400	175.10, Revised	46 U.S.C. 2101; IMO; Subch. F, H, J, S.
114.540	175.15–1	
114.550	175.25–1	
114.560	175.30–1	
114.600	175.27–1, Revised	
114.800	175.10–1; 175.10–2; 181.05–1, Revised	
114.900	175.01–3	
115.100	176.01–1; 176.01–3, Revised	46 U.S.C. 3311, 3313.
115.103	176.01–5, Revised	
115.105	176.01–10	
115.107	176.01–15, Revised	46 U.S.C. 3307.
115.110	176.01–20, Revised	IMO.
115.112	New	
115.113	176.01–25, Revised	IMO.
115.114	New	
115.120	176.01–35	
115.202	176.01–27	46 U.S.C. 3313.
115.204	176.01–30	46 U.S.C. 2113.
115.302	176.01–40; 176.01–27(d); 176.35–25	
115.306	185.12–1	
115.310	176.01–45	
115.400(a)	176.05–1	
115.400(b), (c)	175.20–1	
115.402	176.05–5, Revised	46 U.S.C. 3305.
115.402(e)(8)	New	IMO.
115.404	176.05–10	
115.500	176.10–1	
115.502	176.10–5	
115.600	176.15–1, Revised	
115.610	176.15–5, Revised	
115.612(a), (b)	176.15–10	
115.612(c)	New	
115.630	New	
115.670	176.15–1(a)	
115.700(a), (b)	176.20–1, Revised	NVIC 11–83; 78.33.
115.700(c)	New	
115.700(d)	176.20–5	
115.702	New	
115.704	New	NVIC 11–83; 78.33.
115.710	New	
115.800	176.25–1, Revised	
115.801	175.20–5	
115.802	176.25–5, Revised	MSM.
115.804	176.25–10, Revised	
115.806	176.25–15, Revised	
115.808	176.25–20; 176.25–22, Revised	
115.810	176.25–25, Revised	
115.812	176.25–30; 176.25–32, Revised	
115.814	176.25–35, Revised	
115.816	176.25–40	

SUBCHAPTER S—Continued

New section	Old section	Reference
115.818	176.25–45	
115.830	176.25–50	
115.840	176.30–1	
115.900(a), (b)	176.35–1(a), (b)	
115.910	176.35–15; 176.35–30, Revised	
115.920(a), (b)	176.35–1(c), (d), (e), Revised	
115.920(c), (d)	176.35–20, Revised	
115.930	New	SOLAS Ch. 1, Reg. 5, MSM II–9.I.1.
116.100	177.01–5	
116.115	New	
116.202	177.05–1; 177.05–3, Revised	IMO; Subch. H.
116.210	177.05–5, Revised	
116.300	177.10–1(a), Revised	
116.330	177.10–1(a), Revised	169.309(b), (c).
116.340	177.10–1(b), Revised	
116.400	New	NVIC 11–83.
116.405(a)	177.10–5(a)	
116.405(b)	177.10–5(b), Revised	
116.405(c)	182.35–1, Revised	ABYC A–3–70, NFPA 701.
116.405(d)	177.10–5(c)	
116.405(e)	New	
116.405(f)	177.30–7(d), Revised	
116.405(g)	New	
116.405(h)	177.30–7(b), Revised	
116.405(i)	New	
116.415	New	Subch. H.
116.420	New	Subch. H, NVIC 6–80.
116.422	New	Subch. H, NVIC 6–80.
116.423	New	Subch. H, NVIC 6–80.
116.425	New	Subch. H, NVIC 6–80.
116.427	New	Subch. H, NVIC 6–80.
116.430	New	Subch. H, NVIC 6–80.
116.433	New	Subch. H.
116.435	New	Subch. H, NFPA 436.
116.438	New	Subch. H.
116.439	New	NFPA 101.
116.440	New	IMO/MSC Circular 526.
116.500	177.15–1; 177.30–7(c), Revised	IMO 4.3, NFPA 101.
116.510	New	
116.520	New	
116.530	New	
116.600	177.20–1; 177.20–5; 181.20–35; 182.15–45, Revised.	72.05–50(i).
116.610	New	Subpart 72.15, NVIC 6–80.
116.620	New	
116.700	177.25–1, Revised	
116.710	New	
116.730	New	Subch. H; NVIC 11–83.
116.800(a), (b), (c)	177.30–7(a), Revised	
116.800(d), (e)	New	IMO 4.1.
116.800(f)	New	NVIC 11–83; 72.25–10.
116.800(g)	New	
116.810(a)	New	
116.810(b), (c), (d)	177.30–7(b), Revised	
116.820	177.30–1, Revised	IMO 4.2.
116.900	177.35–1, Revised	MSM II–10.A.6, SOLAS.
116.920	177.35–5, Revised	
116.940	177.35–10, Revised	
116.960	177.35–15, Revised	
116.970	New	
116.1010	New	IMO 4.14, 14.6
116.1020	New	
116.1030	New	IMO 14.2.1.
116.1110	New	171.140.
116.1120	New	171.145.
116.1130	New	171.150.
116.1140	New	171.155.
116.1150	New	171.145; 171.150.
116.1160	New	171.124.
116.1200	New	170.235.
117.10	New	SOLAS; NVIC 11–83.
117.15	New	

SUBCHAPTER S—Continued

New section	Old section	Reference
117.25(a)	180.05–5(a)	
117.25(b)	New	
117.64	180.40–1, Revised	
117.68	180.35–1; 180.35–5	180.35–10, Revised.
117.70	180.30–1; 180.30–5	180.30–10, Revised.
117.71	180.25–1; 180.25–5; Revised	180.25–10; 180.25–20.
117.72	New	
117.75	180.25–20	
117.78	180.25–10, Revised	
117.110	New	
117.130	180.20–1, Revised	
117.137	180.20–1, Revised	
117.150	New	Subch. H.
117.175	180.15–1; 180.15–5; 180.15–10; 180.20–1	Subch. H.
117.200	180.10–30, Revised	
117.202	180.10–5, Revised	
117.204	180.10–5; 180.10–15, 180.10–20, Revised	
117.208	180.10–25, Revised	
117.209	New	
117.210	180.10–35, Revised	
118.115	181.01–1(b), Revised	
118.120	181.05–5, Revised	
118.300(a), (b), (c), (d)	181.10–1(a),(b),(c),(d),(e), Revised	
118.300(e)	New	
118.310(a)	181.15–1; 181.15–5(a),(b)	
118.310(b)	181.15–5(c), Revised	
118.320(a)	181.15–10(a),(g), Revised	
118.320(b)	181.15–10(c),(d), Revised	
118.320(c)	181.15–10(b),(c),(d), Revised	
118.320(d)	181.15–10(d)(2),(e),(f), Revised	
118.400(a)	181.20–1(a), Revised	
118.400(a)(1)	New	
118.400(a)(2)	181.20–5(b), Revised	
118.400(b)	New	
118.400(c)	New	
118.400(d)	New	
118.400(e)	New	NVIC 11–83.
118.400(f)	181.25–1, Revised	
118.400(g)	New	
118.410(a)	181.20–5, Revised	NVIC 6–72.
118.410(b)	181.20–15, Revised	
118.410(c)	181.20–30, Revised	
118.410(d)	181.20–20, Revised	
118.410(e)	New	
118.410(f)	181.20–10; 181.20–25	
118.410(g)	New	NVIC 6–72.
118.420	New	
118.425	New	
118.430	181.25–5, Revised	
118.460	New	
118.465	New	
118.470	New	
118.500	181.30–1; 181.30–5, Revised	
118.500(d)	181.30–12	
118.520	181.30–10(a),(b)	
118.600	181.35–1	
118.610	181.10–5, Revised	
119.100	182.01–5	
119.115	182.01–1, Revised	
119.200(a)	182.05–1	
119.200(b)	New	IMO 9.2.3.
119.220	182.05–5	
119.300	182.10–1	
119.310	182.10–5	
119.320	New	54.01–5; 53–01–10.
119.330	182.10–5(d)	
119.400	182.15–1; 182.20–1	
119.405	182.15–5(c), Revised	
119.410(a),(c)	182.15–5(a),(b), 182.20–5	
119.410(b), (d), (e), (f), (g)	New	
119.415	182.15–7, Revised	
119.420	182.15–10; 182.15–20; 182.20–10, Revised	MSM II 10.A.j; ABYC P–10.

SUBCHAPTER S—Continued

New section	Old section	Reference
119.422	New	56.60–96.
119.423	New	
119.425	182.15–15; 182.20–15, Revised	ABYC P–2.
119.430	182.15–20; 182.20–20, Revised	
119.435	182.20–22	
119.440	182.15–25; 182.20–25, Revised	
119.445	182.15–30; 182.20–30, Revised	
119.450	182.15–35; 182.20–35, Revised	
119.455	182.15–40; 182.20–40, Revised	
119.458	New	ABYC H–25–86.
119.460	182.15–45, Revised	
119.460(l)	181.20–35; 182.15–45(h)	
119.465	182.20–45, Revised	
119.465(h)	181.20–35	
119.470	182.20–50, Revised	
119.480	New	
119.500	182.25–1, Revised	NVIC 11–83.
119.510	182.25–5, Revised	NVIC 11–83.
119.520	182.25–10, Revised	NVIC 11–83.
119.530	New	
119.540	182.25–15, Revised	
119.600	182.30–1; 182.30–5; Revised	NVIC 11–83.
119.700	New	
119.710	182.40–5, Revised	
119.715	New	NVIC 11–83.
119.720	Subpart 182.40, Revised	NVIC 11–83.
119.730	New	56.60–20.
120.100	183.01–5, Revised	
120.115	New	
120.200	183.01–5 Revised	
120.210	183.05–35	
120.220	New	
120.310	New	
120.312	New	111.10; NVIC 11–83.
120.320	183.05–5; 183.05–10; 183.10–5, Revised	
120.322	New	
120.324	New	111.05.
120.330	183.05–15; 183.10–15	
120.340	183.05–40; 183.05–45; 183.05–50; 183.05–20, Revised.	
120.350	183.05–20, Revised	
120.352	New	111.15.
120.354	New	111.15.
120.360	New	111.33.
120.370	183.05–50(d), 183.10–30, Revised	
120.380	183.05–25; 183.05–30; 183.10–25; 183.10–35; 183.10–40, Revised.	
120.390	183.10–50, Revised	
120.392	183.05–25(a), Revised	
120.410	183.05–35; 183.10–20(j), Revised	
120.420	New	Navigation Rules.
120.430	184.30–1, Revised	
120.432	184.30–5, Revised	NVIC 11–83.
120.434	New	111.75–16; NVIC 11–83.
120.520	New	
120.530	New	33 CFR 183.
120.540	New	
120.550	New	NVIC 11–83; 113.25.
121.100	183.01–5	
121.115	New	
121.200	184.05–1(a), Revised	
121.202	184.05–1(c)	
121.210	183.10–45(a), Revised	
121.220	183.10–45(b), Revised	
121.240	184.05–1(d), Revised	OGD 83–013.
121.300	184.10–1	IMO 6.
121.402(a), (b)	184.20–1, Revised	
121.402(c)	New	
121.404	New	
121.408	New	
121.410	New	
121.420	185.20–35	

SUBCHAPTER S—Continued

New section	Old section	Reference
121.502	184.25–1	
121.506	New	
121.602(a),(b),(d)	New	
121.602(c)	184.35–1	
121.610	New	
121.620	New	
121.702	New	
121.704	New	
121.710	New	
122.100	185.01–5	
122.115	New	
122.202	New	4.05–1.
122.204	New	4.05–5.
122.206	New	4.05–10.
122.208	New	NVIC 11–83; 78.33.
122.210	New	4.05–10.
122.212	New	Subpart 4.06.
122.220	New	4.05–15.
122.230	New	4.05–20.
122.250	185.19–1, Revised	46 U.S.C. 2303, 2304.
122.260	New	Subpart 4.04, 46 U.S.C. 2306.
122.280	New	NVIC 11–83; 46 U.S.C. 11301; Subpart 78.37.
122.282	New	78.37–3(c); NVIC 11–83.
122.304	New	33 CFR 164.11.
122.306	New	78.10–1.
122.310	185.20–1	
122.315	New	OGD 89–037.
122.320	185.20–10, Revised	
122.330	185.20–15, Revised	NVIC 11–83; 78.15.
122.335	New	OGD 89–037.
122.340	185.20–20, Revised	
122.350	185.20–25	
122.352	182.15–45(d), Revised	
122.356	175.05–1(d)	
122.360	185.20–30, Revised	
122.370	185.17–1	
122.402	185.10–1	
122.410	185.22–1, Revised	46 U.S.C. 8102.
122.420	185.25–10, Revised	IMO 17.2.
122.502	New	46 U.S.C. 3502
122.504	New	46 U.S.C. 3502.
122.506	185.25–1(d), Revised	
122.508	New	
122.510	185.25–1(a),(b),(c)	
122.512	185.25–5, Revised	
122.514	New	NVIC 11–83; 78.13.
122.515	New	78.47–47; NVIC 11–83.
122.516	New	NVIC 11–83; 78.47–47.
122.518	185.25–7, Revised	160.051.
122.520	185.25–10	NVIC 11–83; 78.17–50.
122.524	185.25–10	NVIC 11–83; 78.17–50; IMO 17.5.3.
122.530	185.25–15	
122.602(a), (b), (f)	185.30–1	
122.602(c), (d), (e), (g)	New	NFPA 101.
122.604	185.30–5, 185.30–10, 185.30–30, 180.20–5, 180.25–15, 180.25–25, Revised.	
122.606	185.30–15	
122.608	185.30–20	
122.610	185.30–25	
122.612(a), (c)	181.20–15(d), Revised	78.47–15.
122.612(b), (d)–(h)	New	NVIC 11–83; 78.47.
122.700	New	
122.702	New	
122.704	New	
122.720	New	
122.722	New	
122.724	New	
122.726	185.25–20(b), Revised	
122.728	185.25–20, Revised	
122.730	New	160.051–6; 160.076; 160.077.
122.740	New	160.062.

SUBCHAPTER S—Continued

New section	Old section	Reference
122.900	185.05–1(a)	
122.910	185.05–1(b)	
SUBCHAPTER T		
175.100	175.01–1(a), Revised	
175.110	175.05–1; 175.05–3	46 U.S.C. 3301–3303 Revised.
175.112	175.05–5(d), Revised	
175.120	175.05–1(c)	
175.122	175.07–1	46 U.S.C. 5102.
175.200	175.05–15	
175.400	175.10, Revised	46 U.S.C. 2101; IMO; Subch. F, H, J, S.
175.540	175.15–1	
175.550	175.25–1	
175.560	175.30–1	
175.600	175.27–1, Revised	
175.800	175.10–1; 175.10–2; 181.05–1, Revised	
175.900	175.01–3	
176.100	176.01–1; 176.01–3, Revised	46 U.S.C. 3311, 3313.
176.103	176.01–5, Revised	
176.105	176.01–10	
176.107	176.01–15, Revised	46 U.S.C. 3307.
176.110	176.01–20, Revised	IMO.
176.112	New	
176.113	176.01–25, Revised	IMO.
176.114	New	
176.120	176.01–35	
176.202	176.01–27	46 U.S.C. 3313.
176.204	176.01–30	46 U.S.C. 2113.
176.302	176.01–40; 176.01–27(d); 176.35–25	
176.306	185.12–1	
176.310	176.01–45	
176.400(a)	176.05–1	
176.400(b), (c)	175.20–1	
176.402	176.05–5, Revised	46 U.S.C. 3305.
176.402(e)(8)	New	IMO.
176.404	176.05–10	
176.500	176.10–1	
176.502	176.10–5	
176.600	176.15–1, Revised	
176.610	176.15–5, Revised	
176.612(a), (b)	176.15–10	
176.612(c)	New	
176.630	New	
176.670	176.15–1(a)	
176.700(a), (b)	176.20–1, Revised	NVIC 11–83; 78.33.
176.700(c)	New	
176.700(d)	176.20–5	
176.702	New	
176.704	New	NVIC 11–83; 78.33.
176.710	New	
176.800	176.25–1, Revised	
176.801	175.20–5	
176.802	176.25–5, Revised	MSM.
176.804	176.25–10, Revised	
176.806	176.25–15, Revised	
176.808	176.25–20; 176.25–22, Revised	
176.810	176.25–25, Revised	
176.812	176.25–30; 176.25–32, Revised	
176.814	176.25–35, Revised	
176.816	176.25–40	
176.818	176.25–45	
176.830	176.25–50	
176.840	176.30–1	
176.900(a), (b)	176.35–1(a), (b)	
176.910	176.35–15; 176.35–30, Revised	
176.920(a), (b)	176.35–1(c), (d), (e), Revised	
176.920(c), (d)	176.35–20, Revised	
176.930	New	SOLAS Ch.1, Reg. 5, MSM II–9.I.1.
177.100	177.01–5	
177.115	New	

SUBCHAPTER S—Continued

New section	Old section	Reference
177.202	177.05–1; 177.05–3, Revised	IMO; Subch. H.
177.210	177.05–5, Revised	
177.300	177.10–1(a), Revised	
177.310	177.10–1(a), Revised	
177.315	New	
177.330	177.10–1(a), Revised	169.309(b), (c).
177.340	177.10–1(b), Revised	
177.405(a)	177.10–5(a)	
177.405(b)	177.10–5(b), Revised	
177.405(c)	182.35–1, Revised	ABYC A–3–70, NFPA 701.
177.405(d)	177.10–5(c)	
177.405(e)	New	
177.405(f)	177.30–7(d), Revised	
177.405(g)	New	
177.405(h)	177.30–7(b), Revised	
177.405(i)	New	
177.410(a)	177.10–5(a–1), Revised	NVIC 8–87.
177.410(b)	177.10–5(b), Revised	
177.410(c), (d)	New	NVIC 8–87; policy.
177.430	New	Subch. H, NVIC 6–80.
177.500	177.15–1; 177.30–7(c), Revised	IMO 4.3, NFPA 101.
177.600	177.20–1; 177.20–5; 181.30–35; 182.15–45, Revised.	72.05–50(i).
177.620	New	
177.700	177.25–1, Revised	
177.710	New	
177.800(a), (b), (c)	177.30–7(a), Revised	
177.800(d), (e)	New	IMO 4.1.
177.800(f)	New	NVIC 11–83; 72.25–10.
177.800(g)	New	
177.810(a)	New	
177.810(b), (c), (d)	177.30–7(b), Revised	
177.820	177.30–1, Revised	IMO 4.2.
177.900	177.35–1, Revised	MSM II–10.A.6, SOLAS.
177.920	177.35–5, Revised	
177.940	177.35–10, Revised	
177.960	177.35–15, Revised	
177.970	New	
177.1010	New	IMO 4.1.4, 14.6.
177.1020	New	
177.1030	New	IMO 14.2.1.
178.115	New	170.001; 171.001.
178.210	New	170.110; 170.120; NVIC 10–83.
178.220	New	170.110.
178.230	New	170.120.
178.310	New	171.020.
178.320	New	171.030.
178.325	New	171.035.
178.330	New	171.030.
178.340	New	MSM IV–6.D.3.b.
178.410	New	171.140.
178.420	New	171.145.
178.430	New	171.150.
178.440	New	171.155.
178.450	New	
178.510	New	170.235.
179.115	New	170.001.
179.210	New	171.040; 171.060.
179.212	New	171.040; 171.060.
179.220	New	171.043.
179.230	New	171.080.
179.240	New	170.245.
179.310	New	171.040; 171.085.
179.320	New	171.040(e); 171.114.
179.330	New	170.255; .170.270; 171.114; MSM IV–6.I.
179.340	New	171.113.
179.350	New	171.119.
179.360	New	171.124.
180.10	New	SOLAS; NVIC 11–83.
180.15	New	
180.25(a)	180.05–5(a)	

SUBCHAPTER S—Continued

New section	Old section	Reference
180.25(b)	New	
180.64	180.40–1, Revised.	
180.68	180.35–1; 180.35–5; 180.35–10, Revised.	
180.70	180.30–1; 180.30–5; 180.30–10, Revised.	
180.71	180.25–1; 180.25–5; 180.25–10; 180.25–20, Revised.	
180.72	New	
180.75	180.25–20	
180.78	180.25–10, Revised	
180.110	New	
180.130	180.20–1, Revised	
180.137	180.20–1, Revised	
180.150	New	Subch. H.
180.175	180.15–1; 180.15–5; 180.15–10; 180.20–1	Subch. H.
180.200	180.10–30, Revised	
180.202	180.10–5, Revised	
180.204	180.10–5; 180.10–15; 180.10–20, Revised	
180.206	180.10–5; 180.10–15, Revised	
180.207	180.10–20, Revised	
180.208	180.10–25, Revised	
180.209	New	
180.210	180.10–35, Revised	
181.115	181.01–1(b), Revised	
181.120	181.05–5, Revised	
181.300(a), (b), (c), (d)	181.10–1(a), (b), (c), (d), (e), Revised	
181.300(e)	New	
181.310(a)	181.15–1; 181.15–5(a), (b)	
181.310(b)	181.15–5(c), Revised	
181.320(a)	181.15–10(a), (g), Revised	
181.320(b)	181.15–10(c), (d), Revised	
181.320(c)	181.15–10(b), (c), (d), Revised	
181.320(d)	181.15–10(d)(2), (e), (f), Revised	
181.400(a)	181.20–1(a), Revised	
181.400(a)(1)	New	
181.400(a)(2)	181.20–5(b), Revised	
181.400(b)	New	
181.400(c)	New	
181.400(d)	New	
181.400(e)	New	NVIC 11–83.
181.400(f)	181.25–1, Revised	
181.400(g)	New	
181.410(a)	181.20–5, Revised	NVIC 6–72.
181.410(b)	181.20–15, Revised	
181.410(c)	181.20–30, Revised	
181.410(d)	181.20–20, Revised	
181.410(e)	New	
181.410(f)	181.20–10; 181.20–25, Revised	
181.410(g)	New	NVIC 6–72.
181.420	New	
181.425	New	
181.430	181.25–5, Revised	
181.450	New	
181.460	New	
181.465	New	
181.500	181.30–1; 181.30–5, Revised	
181.500(d)	181.30–12	
181.520	181.30–10(a), (b)	
181.600	181.35–10	
181.610	181.10–5, Revised	
182.100	182.01–5	
182.115	182.01–1, Revised	
182.130	New	
182.200(a)	182.05–1	
182.200(b)	New	IMO 9.2.3.
182.220	182.05–5	
182.300	182.10–1	
182.310	182.10–5	
182.320	New	54.01–5; 53–01–10.
182.330	182.10–5(d)	
182.400	182.15–1; 182.20–1	
182.405	182.15–5(c), Revised	
182.410(a), (c)	182.15–5(a), (b); 182.20–5	

SUBCHAPTER S—Continued

New section	Old section	Reference
182.410(b), (d), (e), (f), (g)	New	
182.415	182.15–7, Revised	
182.420	182.15–10; 182.15–20; 182.20–10, Revised	MSM II 10.A.j; ABYC P–10.
182.422	New	56.60–96.
182.423	New	
182.425	182.15–15; 182.20–15, Revised	ABYC P–2.
182.430	182.15–20; 182.20–20, Revised	
182.435	182.20–22	
182.440	182.15–25; 182.20–25, Revised	
182.445	182.15–30; 182.20–30, Revised	
182.450	182.15–35; 182.20–35, Revised	
182.455	182.15–40; 182.20–40, Revised	
182.458	New	ABYC H–25–86.
182.460	182.15–45, Revised	
182.460(1)	181.20–35; 182.15–45(h)	
182.465	182.20–45, Revised	
182.465(h)	181.20–35	
182.470	182.20–50, Revised	
182.480	New	
182.500	182.25–1, Revised	NVIC 11–83.
182.510	182.25–5, Revised	
182.520	182.25–10, Revised	
182.530	New	
182.540	182.25–15, Revised	
182.600(a)	New	
182.600(b)	New	NVIC 11–83.
182.610(a)	182.30–1; Revised	
182.610(b)–(f)	New	
182.620(a), (b)	182.30–5(a), Revised	
182.620(c)	182.30–5(b), Revised	
182.700	New	
182.710	182.40–5, Revised	
182.715	New	NVIC 11–83.
182.720 (a), (b), (c)	Subpart 182.40, Revised	NVIC 11–83.
182.720(d)	182.15–40; 182.20–40, Revised	33 CFR 183.
182.730	New	56.60–20.
183.100	183.01–5, Revised	
183.115	New	
183.130	New	
183.200	183.01–5, Revised	
183.210	183.05–35	
183.220	New	
183.310	New	
183.320	183.05–5; 183.05–10; 183.10–5, Revised	
183.322	New	
183.324	New	111.05.
183.330	183.05–15; 183.10–15	
183.340	183.05–40; 183.05–45; 183.05–50; 183.10–20, Revised.	
183.350	183.05–20, Revised	
183.352	New	111.15.
183.354	New	111.15.
183.360	New	111.33.
183.370	183.05–50(d), 183.10–30, Revised	
183.380	183.05–25; 183.05–30; 183.10–25; 183.10–35; 183.10–40, Revised.	
183.390	183.10–50, Revised	
183.392	183.05–25(a), Revised	
183.410	183.05–35; 183.10–20(j), Revised	
183.420	New	Navigation Rules.
183.430	184.30–1, Revised	
183.432	184.30–5, Revised	NVIC 11–83.
183.520	New	
183.530	New	33 CFR 183.
183.540	New	
183.550	New	NVIC 11–83; 113.25.
184.100	184.01–5	
184.115	New	
184.200	184.05–1(a), Revised	
184.202	184.05–1(c)	
184.210	183.10–45(a), Revised	
184.220	183.10–45(b), Revised	

SUBCHAPTER S—Continued

New section	Old section	Reference
184.240	184.05–1(d), Revised	CGD 83–013.
184.300	184.10–1	IMO 6.
184.402(a), (b)	184.20–1, Revised	
184.402(c)	New	
184.404	New	
184.408	New	
184.410	New	
184.420	185.20–35	
184.502	184.25–1	
184.506	New	
184.602(a), (b), (d)	New	
184.602(c)	184.35–1	
184.610	New	
184.620	New	
184.702	New	
184.704	New	
184.710	New	
185.100	185.01–5	
185.115	New	
185.202	New	4.05–1.
185.204	New	4.05–5.
185.206	New	4.05–10.
185.208	New	NVIC 11–83; 78.33.
185.210	New	4.05–12.
185.212	New	Subpart 4.06.
185.220	New	4.05–15.
185.230	New	4.05–20.
185.250	185.19–1, Revised	46 U.S.C. 2303, 2304.
185.260	New	Subpart 4.04, 46 U.S.C. 2306.
185.280	New	NVIC 11–83; 46 U.S.C 11301; Subpart 78.37.
185.304	New	33 CFR 164.11.
185.310	185.20–1	
185.315	New	CGD 89–037.
185.320	185.20–10, Revised	
185.330	185.20–15, Revised	NVIC 11–83; 78.15.
185.335	New	CGD 89–037.
185.340	185.20–20, Revised	
185.350	185.20–25	
185.352	182.15–45(d), Revised	
185.356	175.05–1(d)	
185.360	185.20–30, Revised	
185.370	185.17–1	
185.402	185.10–1	
185.410	185.22–1, Revised	46 U.S.C. 8102.
185.420	185.25–10, Revised	IMO 17.2.
185.502	New	46 U.S.C. 3502.
185.504	New	46 U.S.C. 3502.
185.506	185.25–1(d), Revised	
185.508	New	
185.510	185.25–1(a), (b), (c)	
185.512	185.25–5, Revised	
185.514	New	NVIC 11–83; 78.13.
185.516	New	NVIC 11–83; 78.47–47.
185.518	185.25–7, Revised	160.051.
185.520	185.25–10	NVIC 11–83; 78.17–50.
185.524	185.25–10	NVIC 11–83; 78.17–50; IMO 17.5.3.
185.530	185.25–15	
185.602(a), (b), (f)	185.30–1	
185.602(c), (d), (e), (g)	New	NFPA 101.
185.604	185.30–5, 185.30–10, 185.30–30, 180.20–5, 180.25–15, 180.25–25, Revised.	
185.606	185.30–15	
185.608	185.30–20	
185.610	185.30–25	
185.612(a), (c)	181.20–15(d), Revised	78.47–15.
185.612(b), (d)–(h)	New	NVIC 11–83; 78.47.
185.700	New	
185.702	New	
185.704	New	
185.720	New	
185.722	New	

SUBCHAPTER S—Continued

New section	Old section	Reference
185.724	New	
185.726	185.25–20(b), Revised	
185.728	185.25–20, Revised	
185.730	New	160.051–6; 160.076; 160.07.
185.740	New	160.062.
185.900	185.05–1(a)	
185.910	185.05–1(b)	

Regulatory Assessment

This document has been reviewed under Executive Order 12866, "Regulatory Planning and Review," and is considered a significant regulatory action under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979).

In conjunction with the NPRM, the Coast Guard conducted a detailed assessment of the costs and benefits of the proposed changes affecting small passenger vessel owners, the public, and the Coast Guard. The average annual cost to the small passenger vessel industry of the proposed changes in the NPRM was estimated to be $8.44 million per year in 1987 dollars. The NPRM preamble included an explanation of how the cost was determined, details of some of the more expensive cost items, and an analysis of the anticipated impact. Many responses to the NPRM focused on a few key issues, which are discussed in the following paragraphs.

The prices used for new equipment proposed in the NPRM reflected the minimum cost that would be incurred by a vessel owner or operator to meet the regulations. This is not necessarily the equipment of choice for most vessels. Many vessel owners and operators presently use equipment proposed by this SNPRM because they recognize the need for such equipment. In doing so, they have voluntarily installed high quality, expensive equipment based on factors such as reliability, serviceability, and superior performance. Thus, while an inexpensive fathometer installed on a transom mount would meet the letter of the regulation and save the cost of drydocking, most owners would install a more expensive device, with a through-hull transducer, in order to gain reliability. Owners have pointed out that inexpensive equipment does not stand up to the rigors of commercial use and may cost more than quality equipment in the long run, because the failure of a device may prevent a vessel from operating and earning revenue.

In order to more accurately reflect the impact of this regulatory package, the Coast Guard has increased the assumed cost of many add-on items based upon responses to the NPRM. For example, the assumed cost of a radar has been increased from $3,000 to $6,000 based upon industry comments. Further, to more accurately reflect the costs experienced by industry in maintaining and eventually replacing equipment, the annual maintenance cost has been assumed as 20 percent of the initial procurement and installation cost.

Other comments stated that the interest rate assumed in the analysis (10 per cent annually) and the period over which costs were annualized (25 years) were grossly misrepresentative of the financing that is available to the industry in terms of interest rates and repayment period.

The Coast Guard was not attempting to model actual interest rates and loan periods when choosing the values used in the analysis. Rather, the Coast Guard was relying on guidance provided by the Office of Management and Budget (OMB) through Executive Order 12291. That order specifies that a time value of money of ten percent be used and suggests an analysis period of 30–35 years, beyond which the impact of a constant cash flow becomes negligible in terms of present value. In the analysis which accompanied the NPRM, the Coast Guard assumed a time value of money of 10 per cent and extended the analysis over a period of 100 years to determine the cost of the rulemaking. For the SNPRM, the latest OMB direction requires the Coast Guard to assume a time value of money of 7 per cent. Additionally, the Coast Guard has limited the evaluation cost of the rulemaking to a 30 year period instead of 100 years.

It is apparent that some confusion was caused by the Coast Guard's use of four sample vessels to quantify the impact. As a matter of simplification, the Coast Guard chose to use a period of 25 years, the assumed life of a small passenger vessel, when quantifying the impact on the sample vessels. These examples have not been used in this SNPRM.

Several comments pointed out that, on the basis of fleet size and number of passengers carried, the small passenger vessel fleet has an exemplary safety record, particularly when compared to other transportation modes, and recommended that the Coast Guard compare the safety records of different transportation modes before proceeding with the rulemaking.

The Coast Guard reviewed safety data from different transportation modes and found no common basis for comparison. Further compounding the complexity of the issue is the variety of reasons involved with choice of transportation modes. For example, travel via scheduled airlines is generally recognized to involve some degree of risk. However, millions of people travel by air annually, at a relatively high monetary cost, because of a need to travel a large distance in a short period of time. With the exception of some ferry operations, passengers are generally not driven to travel on small passenger vessels by some need which outweighs the perceived risk. Rather, most small passenger vessel travel is done for pleasure under a perception of minimal risk, if any.

Several comments suggested that the cost of the other regulations and policies which have been promulgated recently or are expected to be published, such as alcohol and drug regulations and manning policies, should be considered a part of the evaluation for the subchapter T proposal because the costs will all impact upon the same small passenger vessel operator. The Coast Guard recognizes the industry's concern about multiple regulatory projects which cumulatively increase the operational costs of a small passenger vessel. This concern is addressed in Executive Order 12291 and DOT Order 2100.5, which require that each regulatory project must be justifiable on its own merits in terms of balancing costs and benefits.

The analysis for this SNPRM is a revision of the analysis completed for the NPRM, with changes made to reflect industry comments and inputs. Because several comments from the insurance

industry stated that little or no saving in insurance premiums would accrue to vessel owners for improvements such as fixed fire extinguishing systems, these savings have not been included in the evaluation of this SNPRM.

This SNPRM proposed several changes in the small passenger vessel regulations which will decrease the operating costs of the fleet overall. These decreased costs will primarily be due to:

1. Reduced fire damage due to increased fire protection equipment;

2. Extended drydocking intervals for non wood-hulled vessels;

3. Reduced structural fire protection requirements; and

4. Greater flexibility in the choice of structural fire protection materials and piping materials.

The regulations proposed in this SNPRM would result in an overall increased cost, for the initial purchase and outfitting of a new, small passenger vessel, of approximately $1,500 to $94,000 per vessel depending upon the vessel's operation and number of passengers permitted to be carried. The total net present value of the cost of the proposed changes is $102.7 million.

Time phasing and discounting were used to determine the Net Present Value (NPV) and Average Annual Cost (AAC). Discounting recognizes that future costs or benefits are not worth the same amount at the present time, and that the relationship between monetary values at different points in time is the interest rate or discount factor. The NPV is the total value of all future costs and benefits from this proposal on the effective date of the regulations. To calculate the NPV of the regulations as proposed in this SNPRM, the regulations were assumed to be effective for a planning period of 30 years, instead of 100 years as used in the NPRM. Each year's expected yearly cost was multiplied by a discount factor and summed over all years of the planning period. The AAC is the NPV discounted over all the years of the planning period, producing equal annual costs. For the evaluation the average life of a small passenger vessel was estimated to be 25 years.

More than 70 individual changes from the existing regulations were identified in this proposal as being monetary cost/benefit items. The most significant of these items were:

1. Liferafts or inflatable buoyant apparatus for certain vessels ($4.87 million AAC);

2. Passenger/crew lists ($1.03 million AAC); and

3. Fixed total flooding fire extinguishing systems in machinery spaces ($1.96 million AAC).

The estimated cost of the proposed changes are based on information from small passenger vessel owners, builders, equipment vendors, and marine equipment catalogs, and include estimated initial outfitting costs and the annual recurring costs. Outfitting costs include the initial purchase price and installation charge for new equipment. Recurring costs include annual maintenance and service cost, annual labor cost for making passenger and crew lists, and an annual pro rata replacement cost for the cited equipment based on a ten year life expectancy, minus any quantifiable monetary benefit from annual cost savings due to items such as reduced insurance premiums, reduced material costs, and reduced number of drydockings. A discussion of the individual cost or monetary benefit of many proposed changes is included in the "Discussion of Proposed Regulations" in this preamble. Comments are requested on the costs stated throughout this preamble.

The small passenger vessel industry would incur a direct, average annual cost of $9.71 million as a result of this SNPRM. Although the direct cost may be considered large, the need for and benefits of the proposed regulations justify the cost.

The primary benefit of the proposed regulations is that they are expected to reduce the number of lives lost, and injuries and property damage sustained, as a result of casualties involving small passenger vessels. This primary benefit can not be readily calculated in monetary terms. Some of the requirements proposed by this rulemaking for which the full monetary benefit of the requirement can not be easily quantified include: liferafts and inflatable buoyant apparatus, EPIRBs, fixed total flooding fire extinguishing systems, fire detecting systems, and passenger and crew lists.

Based on available small passenger vessel casualty data, the proposed requirements for inflatable liferafts and buoyant apparatus are expected to save two lives per year. The requirement that lifejackets be worn in hazardous situations is estimated to save an additional life per year.

Concerning the requirement for fixed fire extinguishing systems in machinery spaces, the Coast Guard estimates that this requirement will prevent $0.3 million in property damage each year.

The Department of Transportation General Counsel's memorandum of January 8, 1983, noted that $2.5 million per statistical life saved is a reasonable estimate of people's willingness to pay for safety. Injuries are calculated at varying fractions of this amount depending on the severity of the injury. Considering the three lives per year estimated to be saved by the implementation of these proposed regulations, the Coast Guard estimates that this rulemaking will produce an annual benefit of at least $7.5 million in lives saved and injuries prevented alone.

Additionally, the Coast Guard estimated that these proposed regulations will produce other unquantified savings. The revised format of these regulations alone, with the creation of subchapter K, will make them generally easier to use. EPIRBs will reduce the number of search and rescue false alarms and reduce search time. Passenger lists and voyage plans will further reduce Coast Guard search and rescue resources expended in offshore searches. EPIRBs and inflatable primary lifesaving equipment will also reduce the number of cold water related injuries. When considered collectively, the Coast Guard believes these unquantified benefits, as well as the estimated savings in the deployment of search and rescue resources will easily produce an additional benefit of $2 million annually.

Based on an estimated 3 lives saved (liferafts and lifejackets) and other unquantified benefits, the equivalent of an additional life saved or one severe injury prevented would be required for the regulation, taken as a whole, to be fully cost-effective. The Coast Guard has considered a range of options in structuring this proposed rule, and has tried to structure the components of this rule in as cost-effective a way as possible. In some cases, quantifiable benefits may not appear to fully justify the costs. The Coast Guard will continue to evaluate how to weigh costs and quantify benefits in making decisions as this rulemaking progresses. In evaluating the proposed requirements, final decisions are critically dependent on the treatment of low probability, high consequence events. To what extent, for example, is there adequate justification to support a conclusion that fires, occurring in machinery spaces not otherwise protected by the provisions in this proposed rule, could lead to the loss of the equivalent of 20 lives over the 30 year life of this rule? The Coast Guard specifically seeks comment on such potential costs and benefits.

Fortunately, a United States small passenger vessel carrying a large number of passengers has not been involved, to date, in a major casualty

resulting in a significant number of injuries or deaths. As available statistics indicate, the average size of small passenger vessels is increasing. As the average size increases, the risk of having a catastrophic casualty also increases. A low probability, high consequence accident is difficult to predict using casualty statistics. The historical lack of a small passenger vessel accident resulting in a large loss of life can not be used as an argument to say that such an incident will not happen in the future.

The existing regulations do not adequately address the continuing increase in the number of persons being carried on small passenger vessels today. This continuing increase emphasizes the need for the proposed regulations. One casualty involving a small passenger vessel carrying a large number of passengers, which involves a large fire or results in passengers entering the water, would dramatically increase the number of lives saved by equipment and procedures required by the proposed regulations. The number of lives saved by the proposed regulations for survival craft alone would be much more than the estimated average, based on recent casualty data, of two lives per year.

The proposals for liferafts and inflatable buoyant apparatus are based on the recognition of the potential for a tragic accident involving a large number of passengers as well as the number of deaths which have occurred in the past. Because of the high cost of survival craft, alternatives to the proposed requirements were extensively considered. The proposed regulations for survival craft were determined to be the best balance of number of persons at risk, the threat due to hypothermia, and cost.

The proposal to require Category 1 satellite EPIRBs on all small passenger vessels presently required to have EPIRBs, as well as on vessels on coastwise routes and Great Lakes routes more than three miles from shore, is based upon: (1) The improved signals that the new Category 1 satellite EPIRBs transmit; and (2) recognition that many casualties occur close to shore without an adequate distress signal being transmitted. The proposed requirements for Category 1 satellite EPIRBs would improve rescue response by reducing delays and increasing the accuracy of the signal location. The costs to search and rescue units would be decreased because such units would have to spend less time responding and also because of an expected reduction in the number of false alarms which must be tracked down. False alarms from Category 1 satellite EPIRBs are less likely and easier to trace than from the presently required Class A or Class C EPIRBs. The benefits of the proposed requirement for Category 1 satellite EPIRBs are difficult to quantify.

The proposal that fixed total flooding fire extinguishing systems be installed in enclosed machinery spaces on all vessels was based upon the large number of casualties involving machinery space fires and the relatively inexpensive cost of these systems for most small passenger vessels. The monetary benefit of such systems due to reduced fire damage and insurance premiums, which can be quantified, has been included in the average annual cost. Some insurance industry estimates indicate that fixed total flooding fire extinguishing systems actually "pay for themselves" in three to ten years due to reduced insurance premiums. However, as comments to the NPRM stated that this would not be the case for many vessels, these potential benefits were not included in the analysis.

Smoke detecting systems do result in reduced insurance premiums and are considered essential for ensuring early detection of a fire, which leads to more organized and effective firefighting and evacuation responses. Organized and effective response is of particular concern for vessels carrying more than 150 passengers because of the large numbers of people at risk. These vessels would be subject to the requirements for smoke detecting systems in this SNPRM. The installation of these detecting systems is also considered necessary in order to allow reduced structural fire protection. A monetary benefit from smoke detecting systems due to reduced fire damage can not be determined. However, a rapid response to one fire detected by smoke detecting systems aboard a small passenger vessel carrying more than 150 passengers would justify the expense of such systems.

The proposed regulations for passenger and crew lists stem from requirements in the law. The need for such lists is bolstered by recommendations from NTSB and Coast Guard casualty reports. The lists will provide search and rescue personnel with the number and identity of persons missing in the event of a casualty. Often in such situations these details are difficult to determine with any degree of certainty which makes it difficult to determine when to suspend a search. The monetary benefit of such lists is difficult to estimate but such lists would reduce the time it takes for search and rescue personnel to determine how many persons are missing and result in more efficient use of resources.

A revised draft regulatory assessment has been prepared and placed in the rulemaking docket. The assessment contains information on the methodology and data sources used in determining costs and benefits, details on the costs and benefits of each change, alternatives to proposed changes, costs for sample small passenger vessels, and a profile of the small passenger fleet and its casualty history. For information concerning inspecting and copying the draft assessment, refer to "ADDRESSES" above. Copies may also be received by contacting the person listed under "FOR FURTHER INFORMATION CONTACT".

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard must consider whether this rule is likely to have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

A large percentage of small passenger vessels are owned or managed by small entities. In order to reduce the impact of the proposed regulations on these vessels, alternatives have been proposed which are intended to reduce the cost. These alternatives include route restrictions (i.e., less than one mile from shore) and recognition that a vessel with subdivision is less likely to sink. Further, requirements for existing vessels to be retrofitted to meet the new standards were limited to those areas where the greatest benefits may be realized.

The type of vessel for which the regulations would have the greatest cost impact are vessels on oceans or coastwise routes which are permitted to carry only a few more passengers than the maximum of six which may be carried on uninspected vessels. This group of vessels is primarily composed of sport fishing vessels which carry passengers on chartered trips. Some of these are only operated on a part time basis. The owners of vessels operated part time would be affected the most since such vessels make only a limited number of trips from which they can recover the cost of the proposed regulations. The number of vessels in this category is unknown but is estimated to be so small as to have a negligible effect on the cost of this rulemaking.

The reason that the sport fishing vessels are affected the most by the regulations is because approximately 80 percent of the cost increase for a vessel operating on an oceans, coastwise, or Great Lakes route is due to the proposed requirement for liferafts and inflatable buoyant apparatus. The per passenger impact of the requirement for inflatable survival craft increases as the passenger capacity of a vessel decreases.

This SNPRM will also have an impact on wood hulled vessels of more than 10 years of age operated on ocean routes. Some operators of wood hulled vessels in marginal condition may find that they have to alter the scope of their vessel operation, either by carrying fewer passengers or by operating on a more restricted route, in order to remain financially sound. Because these vessels account for the majority of casualties which result in the total loss of a vessel at sea, the impact on the industry at large will be reduced by the continuing decline in the number of wood hulled vessels. In 1987 there were 1,535 wood hulled vessels, comprising 32 per cent of the fleet. By 1991 this number was reduced to 1,417 and represented only 25 per cent of the fleet. Wood is being used in only 8 per cent of the new vessels being constructed.

Based on the discussion above, the Coast Guard has determined that this proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule which contains collection of information requirements to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection of information requirements in the following sections of 46 CFR: 115.105(a), 115.202, 115.204, 115.302, 115.306, 115.310, 115.500(a), 115.612, 115.700, 115.704, 115.710, 115.810(b), 115.920(c), 115.930, 116.202, 116.330, 116.340, 116.610(e), 118.610, 119.460(e), 120.220(d), 120.320 (d) and (e), 121.420, 121.506, 122.202, 122.206, 122.208, 122.220, 122.230, 122.260, 122.280, 122.282, 122.304(c), 122.340(c), 122.402, 122.502, 122.504, 122.506, 122.510, 122.514, 122.515, 122.516, 122.518, 122.602, 122.604, 122.606, 122.608, 122.610, 122.612, 122.702, 122.704(c), 176.105(a), 176.202, 176.204, 176.302, 176.306, 176.310, 176.500(a), 176.612, 176.700, 176.704, 176.710, 176.810(b), 176.920(c), 176.930, 177.202, 177.330, 177.340, 178.210, 178.220, 178.230, 181.610, 182.460(e), 182.610(f), 183.220(d), 183.320 (d) and (e), 184.420, 184.506, 185.202, 185.206, 185.208, 185.220, 185.230, 185.260, 185.280, 185.340(c), 185.402, 185.502, 185.504, 185.506, 185.510, 185.514, 185.516, 185.518, 185.602, 185.604, 185.606, 185.608, 185.610, 185.612, 185.702, 185.704(c).

The information collection requirements for the NPRM (all those above with section numbers between 176 and 185) were submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. OMB approved the information collection requirements, except for 46 CFR 185.502 (Passenger Lists). Since newly proposed subchapter K (section numbers between 115 and 122 above) would apply only to vessels included under the requirements of the NPRM, there are no additional information collection requirements in this SNPRM. For the purposes of this SNPRM the same control numbers are used in subchapter K for any requirements that are identical or similar to the ones in subchapter T. The corresponding control numbers are displayed in proposed §§ 114.900 and 175.900 of this SNPRM. The Coast Guard has resubmitted the information collection requirements for §§ 185.502 and 122.502 to OMB.

Persons desiring to comment on any of these information collection requirements should submit their comments both to the OMB and to the Coast Guard where indicated under "ADDRESSES".

Federalism

This proposed rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects

46 CFR Part 114, 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 115, 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Parts 116, 117, 119, 171, 177, 178, 179, 180, 182

Marine safety, Passenger vessels.

46 CFR Part 118, 181

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 120, 183

Electric power, Marine safety, Passenger vessels.

46 CFR Part 121, 184

Communications equipment, Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 122, 185

Alcohol and alcoholic beverages, Drugs, Hazardous materials, Marine safety, Navigation (water), Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 170

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 173

Marine safety, Vessels.

For the reasons set out in the preamble, the Coast Guard proposes to amend title 46, Code of Federal Regulations by: redesignating parts 114 through 139 (reserved in subchapter J) as subchapter K; amending parts 170, 171, and 173 of subchapter S, and by amending subchapter T as follows.

1. Parts 114 through 139 (reserved in subchapter J) are redesignated and added as subchapter K to read as follows:

SUBCHAPTER K—SMALL PASSENGER VESSELS CARRYING MORE THAN 150 PASSENGERS OR WITH OVERNIGHT ACCOMMODATIONS FOR MORE THAN 49 PASSENGERS

PART 114—GENERAL PROVISIONS

Sec.

114.100 Purpose.
114.110 General applicability.
114.112 Specific applicability for individual parts.
114.120 Vessels on an international voyage.
114.122 Load lines.
114.200 Gross tonnage as a criterion for requirements.

Sec.
114.400 Definitions of terms used in this subchapter.
114.540 Equivalents.
114.550 Special consideration.
114.560 Appeals.
114.600 Incorporation by reference.
114.800 Approved equipment and material.
114.900 OMB control numbers.

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 114.900 also issued under authority of 44 U.S.C. 3507.

§ 114.100 Purpose.

The purpose of this subchapter is to implement applicable sections of subtitle II of title 46, United States Code, which require the inspection and certification of small passenger vessels.

§ 114.110 General applicability.

(a) Except as provided in paragraphs (b) through (f) of this section, this subchapter applies to each vessel of less than 100 gross tons and less than 200 feet which:

(1) Carries more than 150 passengers; or

(2) Has overnight accommodations for more than 49 passengers.

(b) A vessel of less than 100 gross tons which either carries not more than 150 passengers, or has overnight accommodations for not more than 49 passengers, and which is not more than 200 feet in length, may comply with the provisions in subchapter T (Small Passenger Vessels) of this chapter.

(c) A vessel of less than 100 gross tons must comply with parts 72, 75, and 76 of subchapter H (Passenger Vessels) of this chapter, and with the applicable requirements for marine engineering and electrical systems contained in subchapter F (Marine Engineering) and subchapter J (Electrical Engineering) of this chapter if it is:

(1) A vessel which carries more than 600 passengers,

(2) A vessel with overnight accommodations for more than 150 passengers; or

(3) A vessel of more than 200 feet in length which carries more than six passengers.

(d)(1) Unless otherwise provided, an existing vessel which is not required to comply with a requirement in this subchapter may comply with the regulation that was applicable to the vessel on [*date of the day before the effective date of the final rule*].

(2) A vessel required by this subchapter to meet applicable sections of subchapter H shall follow the phase-in schedule for certain equipment and requirements found in this subchapter.

(e) This subchapter does not apply to:

(1) A vessel operating exclusively on inland waters which are not navigable waters of the United States;

(2) An oceanographic research vessel;

(3) A boat forming part of a vessel's lifesaving equipment and which is not used for carrying passengers except in emergencies or during emergency drills;

(4) A vessel of a foreign country which is a party to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), to which the United States Government is currently a party, and which has on board a current valid SOLAS Passenger Ship Safety Certificate; or

(5) A vessel of a foreign country, whose government has inspection laws approximating those of the United States and which by its laws accords similar privileges to vessels of the United States, which has on board a current valid certificate of inspection, permitting the carrying of passengers, issued by its government.

(f) The relationship between this subchapter and other subchapters pertaining to the inspection and certification of small passenger vessels (passenger vessels under 100 GT) is provided in the table below, which shows the breakpoints between subchapters T, K, and H of this chapter.

TABLE 114.110(f)

Subchapter T	Subchapter K	Subchapter K[1]:
≤ 150 passengers or overnight accommodations for ≤ 49 passengers, and ≤ 200 feet	151—600 passengers or overnight accommodations for 50—150 passengers and ≤ 200 feet	≥ 601 passengers or overnight accommodations for ≥ 151 passengers or ≥ 200 feet

[1] Vessels in this category are small passenger vessels (passenger vessels less than 100 GT) but are required to comply with parts 72, 75, and 76 of subchapter H, parts 114, 115, 121, and 122 of subchapter K, and the applicable requirements of subchapters F and J.

§ 114.112 Specific applicability for individual parts.

At the beginning of certain parts of this subchapter, a more specific application is given for all or particular portions of that part. This application sets forth the type, size, service, or age of a vessel to which certain portions of that part apply or particular dates by which an existing vessel must comply with certain portions of that part.

§ 114.120 Vessels on an international voyage.

A mechanically propelled vessel which carries more than 12 passengers on an international voyage must comply with the applicable requirements of SOLAS as well as this subchapter.

§ 114.122 Load lines.

A vessel of 79 feet in length or more, the keel of which was laid or which was at a similar stage of construction on or after July 21, 1968, and which is on a voyage other than a domestic voyage is subject to load line assignment, certification, and marking under subchapter E (Load Lines) of this chapter.

§ 114.400 Definitions of terms used in this subchapter.

(a) Terms used in this subchapter are defined in paragraph (b) of this section. The number in brackets after certain terms describing areas on a vessel refers to the applicable column and row number where that area is listed in Tables 116.415 (b) and (c) of part 116 of this subchapter.

(b) *General terms.*

Accommodation space [4] means a space used as a:

(1) Public space;
(2) Hall;
(3) Dining room and messroom;
(4) Lounge or cafe;
(5) Public sales room;
(6) Overnight accommodation space;
(7) Barber shop or beauty parlor;
(8) Office or conference room;
(9) Washroom or toilet space;
(10) Medical treatment room or dispensary; or
(11) Game or hobby room.

Atrium means a continuous deck opening connecting more than two deck levels that is covered at the top of the series openings and is used for purposes other than an enclosed stairway, elevator hoistway, escalator opening or utility trunk used for pipe, cable, or ductwork.

Balcony means a partial deck within an accommodation space open to the deck below to create two freely communicating levels within the same space.

Beam or *B* means the maximum width of a vessel from:

(1) Outside of planking to outside of planking on wooden vessels; and
(2) Outside of frame to outside of frame on all other vessels.

Bulbous bow means a design of bow in which the forward underwater frames ahead of the forward perpendicular are swelled out at the forefoot into a bulbous formation.

Bulkhead deck means the uppermost deck to which watertight bulkheads and the watertight shell extend.

Cable means single or multiple insulated conductors with an outer protective jacket.

Cargo space [8] means a:

(1) Cargo hold;

(2) Refrigerated cargo space; or

(3) A trunk leading to or from a space listed above.

Char length means the numeric value in inches assigned to a material when tested in accordance with NFPA 261 by an independent laboratory.

Coast Guard District Commander or *District Commander* means an officer of the Coast Guard designated as such by the Commandant to command Coast Guard activities within a district.

Coastwise means a route which is not more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Bering Sea;

(5) The Gulf of Alaska; or

(6) Such other similar waters as may be designated by a Coast Guard District Commander.

Cockpit vessel means a vessel with an exposed recess in the weather deck extending not more than one-half of the length of the vessel measured over the weather deck.

Commandant means the Commandant of the Coast Guard or an authorized Headquarters staff officer designated in § 1.01 of this chapter.

Continuous B-Class ceiling means an approved structural ceiling composed of B-Class panels that terminates only at an approved A-Class or B-Class bulkhead.

Control space [1] means a space containing:

(1) An emergency source of power, excluding generators;

(2) Navigating and radio equipment and which is normally manned;

(3) Centralized fire control or detection equipment, such as fixed extinguishing system controls; or

(4) Machinery controls not located within a machinery space.

Corrosion-resistant material or *corrosion-resistant* means made of one of the following materials in a grade suitable for its intended use in a marine environment:

(1) Silver;

(2) Copper;

(3) Brass;

(4) Bronze;

(5) Aluminum alloys with a copper content of no more than 0.4 percent;

(6) Copper-nickel;

(7) Plastics;

(8) Stainless steel;

(9) Nickel-copper; or

(10) A material, which when tested in accordance with ASTM B–117 for 200 hours, does not show pitting, cracking, or other deterioration.

Crew accommodation space means an accommodation space designated for the use of crew members and which passengers are normally not allowed to occupy.

Critical radiant flux means the numeric value assigned to a material when tested in accordance with ASTM E–648 by an independent laboratory.

Custom engineered means, when referring to a fixed gas fire extinguishing system, a system that is designed for a specific space requiring individual calculations for the extinguishing agent volume, flow rate, piping, and similar factors.

Distribution panel means an electrical panel which receives energy from the switchboard and distributes the energy to energy consuming devices or other panels.

Draft means the vertical distance from the molded baseline of a vessel amidships to the waterline.

Dripproof means enclosed equipment so constructed or protected that falling drops of liquid or solid particles striking the enclosure at any angle from 0 to 15 degrees downward from the vertical do not interfere with the operation of the equipment. A National Electrical Manufacturers Association type 1 enclosure with a dripshield is considered to be dripproof.

Dynamically supported craft means a craft which is operable on or above the water and which has characteristics so different from those of conventional displacement ships to which the existing international conventions apply, particularly SOLAS, that alternative measures should be used to achieve an equivalent level of safety. Within the aforementioned generality, a craft which complies with either of the following characteristics would be considered a dynamically supported craft:

(1) The weight, or a significant part thereof, is balanced in one mode of operation by other than hydrostatic forces.

(2) The craft is able to operate at speeds such that the function $v/\sqrt{gL}$ is equal to or greater than 0.9, where "v" is the maximum speed, "L" is the waterline length and "g" is the acceleration due to gravity, all in consistent units.

Embarkation deck means;

(1) The deck from which davit launched survival craft are designed to be boarded; or

(2) If no davit launched survival craft are carried aboard the vessel, the main deck or lowest deck available for embarking or debarking passengers.

Embarkation station [9] means the place on the vessel from which a survival craft is boarded.

Enclosed space means a compartment that is not exposed to the atmosphere when all access and ventilation closures are secured.

Existing vessel means a vessel which is not a new vessel.

Exposed waters is a term used in connection with stability criteria and means:

(1) Waters, except the Great Lakes, more than 20 nautical miles from a harbor of safe refuge;

(2) Those portions of the Great Lakes more than 20 nautical miles from a harbor of safe refuge from October 1 of one year through April 15 of the next year (winter season); and

(3) Those waters less than 20 nautical miles from a harbor of safe refuge which the cognizant Officer in Charge, Marine Inspection, determines are not partially protected waters or protected waters because they present special hazards due to weather or other circumstances.

Ferry means a vessel that:

(1) Operates in other than ocean or coastwise service;

(2) Has provisions only for deck passengers or vehicles, or both;

(3) Operates on a short run on a frequent schedule between two points over the most direct water route; and

(4) Offers a public service of a type normally attributed to a bridge or tunnel.

Fiber reinforced plastic means plastics reinforced with fibers or strands of some other material.

Fire control boundary means a deck or bulkhead meeting the requirements for A-Class, B-Class, or C-Class construction in accordance with § 116.415 of this subchapter.

Fire load means a measure in pounds per square foot equaling the weight of all combustible material which is in a compartment and comprises its construction, as defined in § 116.427(b) of this subchapter, divided by the floor area of that compartment. The pounds of combustible material is the wood equivalent weight.

Flame spread means the numeric value assigned to a material when tested in accordance with ASTM E–84 or UL 723 by an independent laboratory.

Flash point means the temperature at which a liquid gives off a flammable vapor when heated using the Pensky-Martens Closed Cup Tester method in accordance with ASTM D–93.

Float-free launching or arrangement means that method of launching a survival craft whereby the survival craft is automatically released from a sinking vessel and is ready for use.

Flush deck vessel means a vessel with a continuous weather deck located at the uppermost sheer line of the hull.

Freeing port means any direct opening through the vessel's bulwark or hull to quickly drain overboard water which has been shipped on exposed decks.

Galley means a space containing appliances with cooking surfaces which may exceed 250° F, such as ovens, griddles, and deep fat fryers.

Great Lakes means a route on the waters of any of the Great Lakes.

Gross tonnage and *gross tons* is an indicator of a vessel's approximate volume as determined in accordance with part 69 (Measurement of Vessels) of this chapter and recorded on the vessel's Certificate of Admeasurement.

Harbor of safe refuge means a port, inlet, or other body of water normally sheltered from heavy seas by land and in which a vessel can navigate and safely moor. The cognizant Officer in Charge, Marine Inspection, shall determine the suitability of a location as a harbor of safe refuge. The suitability will vary for each vessel, depending on the vessel's size, maneuverability, and mooring gear.

Hardwood means any wood with a specific gravity, oven dry volume, of not less than 0.66.

High risk service space [5] means a space used as a:

(1) Motion picture projection room;

(2) Galley;

(3) Large laundry or drying room;

(4) Garbage or trash disposal storage area;

(5) Paint or lamp locker;

(6) Cleaning gear locker or small storeroom in an accommodation area; or

(7) Mail or baggage room.

High seas means all waters which are neither territorial seas (the waters in a belt 3 nautical miles wide, that is adjacent to the coast and seaward of the territorial sea baseline) nor internal waters of the United States or of any foreign country.

Independent laboratory means a laboratory accepted under § 159.010 of this chapter.

Inflatable survival craft or lifejacket means one which depends upon nonrigid, gas filled chambers for buoyancy, and which is normally kept uninflated until ready for use.

Interior finish means any coating, overlay or veneer which is applied to interior surfaces such as bulkheads, linings, or suspended ceilings for decorative or other purposes. It includes not only the visible finish, but also all material used in its composition and application. In general, a paint is not considered an interior finish.

International voyage means a voyage between a country to which SOLAS applies and a port outside that country.

A country, as used in this definition, includes every territory for the international relations of which a contracting government to the convention is responsible or for which the United Nations is the administering authority. For the U.S., the term "territory" includes the Commonwealth of Puerto Rico, all possessions of the United States, and all lands held by the United States under a protectorate or mandate. For the purposes of this subchapter, vessels are not considered as being on an "international voyage" when solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

Lakes, bays, and sounds means a route on any of the following waters:

(1) A lake other than the Great Lakes;

(2) A bay;

(3) A sound; or

(4) Such other similar waters as may be designated by a Coast Guard District Commander.

Launching appliance means a device for transferring a survival craft or rescue boat from its stowed position safely to the water. For a launching appliance using a davit, the term includes the davit, winch and falls.

Length when used in terms of the vessel's length, means:

(1) The length listed on the vessel's Certificate of Documentation issued under the provisions of part 67 (Documentation of Vessels) of this chapter or Certificate of Number issued under the provisions of 33 CFR part 173, subpart B (Numbering); or

(2) For a vessel which does not have a Certificate of Documentation or a Certificate of Number, the "registered length" as defined in § 69.53 of this chapter or, for a vessel which is less than 79 feet in overall length and is measured using simplified admeasurement, the registered length as defined in § 69.203 of this chapter; or

(3) For the purposes of part 179 of this subchapter, the "length" of a vessel with a bulbous bow means the larger of the length as defined in paragraph (1) of this definition or the straight line horizontal measurement from the forwardmost tip of the bulbous bow to the aftermost part of the vessel measured parallel to the center line.

Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the "length" of a vessel.

Length between perpendiculars or *(LBP)* means the horizontal distance measured between perpendiculars taken at the forwardmost and aftermost points on the waterline corresponding to the deepest operating draft.

Lining means a bulkhead panel.

Low risk service space (6) means a space used as a:

(1) Small pantry with only a microwave or other low heat appliance;

(2) Main pantry or storeroom including connecting alleyways and stairs;

(3) Small laundry or drying room containing only a tub, washing machine, and/or household type electric dryer; or

(4) Workshop which is not part of a machinery space;

Machinery space (7) means a space including a trunk, alleyway, stairway, or duct to such a space, that contains:

(1) Propulsion machinery of any type;

(2) Steam or internal combustion machinery;

(3) Oil transfer equipment;

(4) Electrical motors of more than 10 hp;

(5) Refrigeration equipment;

(6) One or more oil-fired boilers or heaters; or

(7) Electrical generating machinery.

Main horizontal zone means a vehicle space which is separated from the remainder of the vessel by horizontal fire control boundaries required by the structural fire protection requirements of this subchapter.

Main transverse watertight bulkhead means a transverse bulkhead that must be maintained watertight in order for the vessel to meet the damage stability and subdivision requirements of this subchapter.

Main vertical zone means that section of a vessel into which the hull, superstructure, and deckhouse are required to be divided by vertical fire control boundaries required by the structural fire protection requirements of this subchapter.

Major conversion means a conversion of a vessel that, as determined by the Commandant:

(1) Alters the dimensions of the vessel including but not limited to gross tonnage, length, breath, or height;

(2) Alters the design or arrangement so that the vessel is capable of carrying more passengers than it was originally built to carry;

(3) Alters the design or scantlings of a vessel so that it is suitable for operation on a route of greater severity than the route for which it was originally built; or

(4) Adds or modifies overnight accommodation spaces for passengers so that the total number of passengers that

can be accommodated in such spaces changes from not more than 49 to more than 49.

Marine inspector or *inspector* means any civilian employee or military member of the Coast Guard assigned by an Officer in Charge, Marine Inspection, or the Commandant to perform duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

Master means the individual having command of the vessel and who is the holder of a valid license which authorizes the individual to serve as master of a small passenger vessel.

Means of escape means a continuous and unobstructed way of exit travel from any point in a vessel to an embarkation station. It consists of three distinct components:

(1) The exit access;

(2) The exit; and

(3) The exit discharge.

A means of escape can be both vertical and horizontal, and includes doorways, passageways, stairtowers, stairways, and public spaces. High risk service spaces, low risk service spaces, cargo spaces, machinery spaces, control spaces, rest rooms, barber shops, sales rooms, hazardous areas, escalators, and elevators must not be any part of a means of escape.

New vessel means a vessel:

(1) The initial construction of which began on or after (*effective date of the final rule*);

(2) Which was issued an initial Certificate of Inspection on or after (*six months after effective date of the final rule*);

(3) Which underwent a major conversion which was initiated on or after (*effective date of the final rule*); or

(4) Which underwent a major conversion which was completed and for which an amended Certificate of Inspection was issued on or after (*six months after effective date of the final rule*).

Noncombustible material means any material approved under § 164.009 of this chapter.

Non-self-propelled vessel means a vessel which does not have installed means of propulsion, including propulsive machinery, masts, spars, or sails.

Oceans means a route which is more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Bering Sea;

(5) The Gulf of Alaska; or,

(6) Such other similar waters as may be designated by a Coast Guard District Commander.

Officer In Charge, Marine Inspection, or *OCMI* means an officer of the Coast Guard designated as such by the Commandant and who, under the direction of the Coast Guard District Commander, is in charge of a marine inspection zone, described in part 1 of this chapter, for the performance of duties with respect to the inspections, enforcement, and administration of vessel safety and navigation laws and regulations. The cognizant OCMI is the OCMI that has immediate jurisdiction over a vessel for the purpose of performing the duties previously described.

Open boat means a vessel not protected from entry of water by means of a complete weathertight deck, or by a combination of a partial weathertight deck and superstructure which is structurally suitable for the waters upon which the vessel operates.

Open deck (9) means a deck that is permanently open to the weather on one or more sides and, if covered, any spot on the overhead is less than 15 feet from the nearest opening to the weather.

Open to the atmosphere means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

Operating station means the principal steering station on the vessel from which the individual on duty normally navigates the vessel.

Overnight accommodations or *overnight accommodation space* means an accommodation space for use by passengers or by crew members, which has one or more berths, including beds or bunks, for passengers or crew members to rest for extended periods. Staterooms, cabins, and berthing areas are normally overnight accommodation spaces. Overnight accommodations do not include spaces which contain only seats, including reclining seats.

Partially enclosed space means a compartment that is neither open to the atmosphere nor an enclosed space.

Partially protected waters is a term used in connection with stability criteria and means:

(1) Waters not more than 20 nautical miles from a harbor of safe refuge, unless determined by the cognizant OCMI to be exposed waters;

(2) Those portions of rivers, estuaries, harbors, lakes, and similar waters which the cognizant OCMI determines not to be protected waters; and

(3) Waters of the Great Lakes from April 16 through September 30 of the same year (summer season).

Passenger means an individual carried on a vessel except:

(1) The owner or representative of the owner;

(2) The master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

(3) An employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(4) An employee of the demise charterer of the vessel engaged in the business of the demise charterer;

(5) A guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

(6) An individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.

Passenger accommodation space means an accommodation space designated for the use of passengers.

Pilothouse control means that controls to start and stop the engines and control the direction and speed of the propeller of the vessel are located at the operating station.

Piping system includes piping, fittings, and appurtenances as described in 46 CFR 56.07–5.

Protected waters is a term used in connection with stability criteria and means sheltered waters presenting no special hazards such as most rivers, harbors, and lakes, and which is not determined to be exposed waters or partially protected waters by the OCMI.

Pre-engineered means, when referring to a fixed gas fire extinguishing system, a system that is designed and tested to be suitable for installation without modification, as a complete unit in a space of a set volume, regardless of the specific design of the vessel on which it is installed.

Rivers means a route on any of the following waters: (1) A river; (2) A canal; or (3) Such other similar waters as may be designated by a Coast Guard District Commander.

Sailing vessel means a vessel principally equipped for propulsion by sail even if the vessel has an auxiliary means of propulsion.

Scupper means a pipe or tube of at least 1.25 inches in diameter leading down from a deck or sole and through the hull to drain water overboard.

Self-bailing cockpit means a cockpit, with watertight sides and floor (sole), which is designed to free itself of water by gravity drainage through scuppers.

Service space means a high risk service space or a low risk service space.

Ship's service loads means services necessary for maintaining the vessel in

normal operational and habitable conditions. These loads include, but are not limited to, safety, lighting, ventilation, navigational, and communications loads.

Short international voyage means an international voyage where: (1) The vessel is not more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety; and

(2) The total distance between the last port of call in the country in which the voyage began and the final port of destination does not exceed 600 nautical miles.

Smoke developed rating means the numeric value assigned to a material when tested in accordance with ASTM E–84 or UL 723 by an independent laboratory.

Specific optical density means the numeric value assigned to a material when tested in accordance with ASTM E–662 by an independent laboratory.

Stairtower (3) means a fully enclosed group of stairways located one above another.

Stairway (3) means an inclined means of escape between two decks.

Standard fire test means a test in which a specimen is exposed in a test furnace to temperatures corresponding to the standard time-temperature curve. The specimen must resemble, as closely as possible, the intended construction and include, where appropriate, at least one joint. The standard time-temperature curve is defined by a smooth curve drawn through the following points, starting at ambient temperature:

(1) At the end of 5 minutes—556 °C (1,033 °F);

(2) At the end of 10 minutes—659 °C (1,218 °F);

(3) At the end of 15 minutes—718 °C (1,324 °F);

(4) At the end of 30 minutes—821 °C (1,509 °F); and

(5) At the end of 60 minutes—925 °C (1,697 °F).

Steel or equivalent material means steel or any noncombustible material which, by itself or due to insulation provided, has structural and integrity properties equivalent to steel at the end of the standard fire test.

Stepped main vertical zone means a main vertical zone in which the main vertical zone bulkhead is not in a continuous plane on adjoining decks.

Survival craft means a lifeboat, rigid liferaft, inflatable liferaft, life float, inflatable buoyant apparatus, buoyant apparatus, or a small boat carried aboard a vessel in accordance with § 117.200(b) of this subchapter.

Switchboard means an electrical panel which receives power from a generator, battery, or other electrical power source and distributes power directly or indirectly to all equipment supplied by the generating plant.

Trunk means a vertical shaft or duct for the passage of pipes, wires, or other devices.

Vehicle space (8) means a space not on an open deck, for the carriage of motor vehicles with fuel in their tanks, into and from which such vehicles can be driven and to which passengers have access.

Veneer means a thin covering of combustible material on bulkheads, bulkhead panels, or furniture.

Vessel includes every description of watercraft or other artificial contrivance, used or capable of being used as a means of transportation on water.

Vessel of the United States means a vessel documented or numbered under the laws of the United States, the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Watertight means designed and constructed to withstand a static head of water without any leakage, except that "watertight" for the purposes of electrical equipment means enclosed so that water does not enter the equipment when a stream of water from a hose with a nozzle one inch in diameter that delivers at least 65 gallons per minute is played on the enclosure from any direction from a distance of ten feet for five minutes.

Weather deck means a deck which is partially or completely exposed to the weather from above or from at least two sides.

Weathertight means that water will not penetrate in any sea condition, except that "weathertight equipment" means equipment constructed or protected so that exposure to a beating rain will not result in the entrance of water.

Well deck vessel means a vessel with a weather deck fitted with solid bulwarks that impede the drainage of water over the sides or a vessel with an exposed recess in the weather deck extending more than one-half of the length of the vessel measured over the weather deck.

Wire means an individual insulated conductor without an outer protective jacket.

Work space means a space, not normally occupied by a passenger, in which a crew member performs work and includes, but is not limited to, a galley, operating station, or machinery space.

§ 114.540 Equivalents.

(a) The Commandant may accept in substitution for a required arrangement, fitting, appliance, apparatus, equipment, calculation, information, or test an equivalent that is as effective as that required by the regulations and is consistent with the intent of the requirements and the minimum safety standards specified in this subchapter. Requests for equivalents must be submitted to the Commandant via the cognizant OCMI. If necessary, the Commandant may require engineering evaluations and tests to demonstrate the equivalence of the substitute.

(b) The Commandant may accept compliance by a dynamically supported craft with the provisions of the IMO "Code of Safety for Dynamically Supported Craft" as an equivalent to compliance with applicable requirements of this subchapter. Requests for equivalents must be submitted to the Commandant via the cognizant OCMI.

(c) The Commandant may approve a novel lifesaving appliance or arrangement as an equivalent if it has performance characteristics at least equivalent to the appliance or arrangement required under this part, and:

(1) Is evaluated and tested under IMO Resolution A.520(13), "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements"; or

(2) Has successfully undergone evaluation and tests that are substantially equivalent to those recommendations.

§ 114.550 Special consideration.

In applying the provisions of this subchapter, the OCMI may give special consideration to authorizing departures from the specific requirements when unusual circumstances or arrangements warrant such departures and an equivalent level of safety is provided. The OCMI of each marine inspection zone in which a vessel operates must approve any special consideration granted to the vessel.

§ 114.560 Appeals.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with part 1, subpart 1.03 of this chapter.

§ 114.600 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the **Federal**

Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish a notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the Office of the **Federal Register**, 800 N. Capitol Street NW., Suite 700, Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street SW., Washington, DC 20593–0001 and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are:

American Bureau of Shipping (ABS), P.O. Box 910, 45 Eisenhower Dr., Paramus, NJ 07652

Rules for Building and Classing Aluminum Vessels, 1975, 116.300
Rules for Building and Classing Steel Vessels, 1993, 119.410; 120.360
Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length, 1983, 116.300
Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 1980, 116.300

American Boat and Yacht Council (ABYC), 3069 Solomon's Island Road, Edgewater, MD 21037

A–1–90—Marine LPG—Liquified Petroleum Gas Systems, 121.240
A–3–70—Recommended Practices and Standards Covering Galley Stoves, 121.200
A–7–70—Recommended Practices and Standards Covering Boat Heating Systems, 121.200
A–22–78—Marine CNG—Compressed Natural Gas Systems, 121.240
H–25–86—Portable Fuel Systems for Flammable Liquids, 119.458
P–1–86—Installation of Exhaust Systems for Propulsion and Auxiliary Engines, 116.405; 119.425; 119.430

American National Standards Institute (ANSI), United Engineering Center, 345 East 47th St., New York, NY 10017

A 17.1–1984—American Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, 120.540
B 31.1—1986—American National Standard Code for Pressure Piping, Power Piping, 119.710
Z 26.1–1983—Safety Glazing Materials For Glazing Motor Vehicles Operating on Land Highways, 116.1030

Amerian Society for Testing and Materials (ASTM), 1916 Race St., Philadelphia, PA 19103

B–117–79—Method of Salt Spray (Fog) Testing, 114.400
D–93–80—Flash Point By Pensky-Martens Closed Cup Tester, 114.400
D–635–81—Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Self-supporting Plastics in a Horizontal Position, 119.440
D–2863–77—Standard Test Method for Measuring the Minimum Oxygen Concentration to Support Candle-like Combustion of Plastics (Oxygen Index), 119.440
E–84–81—Test for Surface Burning Characteristics of Building Materials, 114.400; 116.422; 116.423; 116.425
E–648–78—Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source, 114.400; 116.425
E–662–79—Test for Specific Optical Density of Smoke Generated by Solid Materials, 114.400; 116.425
F–(Reserved for standard on pyrotechnic lockers under development by ASTM), 117.68

Australian Transport Advisory Council, Australian Government Publishing Service, Canberra, Australia

Australia Shipping Law Code Section 5, Subsection J, as amended to August 1, 1984, 116.300

Institute of Electrical and Electronics Engineers, Inc. (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ. 08854

Standard 45–1983—Recommended Practice for Electrical Installations on Shipboard, 120.340

International Maritime Organization (IMO), IMO Sales, New York Nautical Instrument and Service Corp., 40 W. Broadway, NY, NY 10013

Code of Safety for Dynamically Supported Craft, 1987, 114.540
Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements—IMO Resolution A.520(13), 114.540(c)
Resolution on the Installation of Reflective Tape on Lifesaving Equipment, Resolution A.658(16), 122.604

National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101

10–1988—Portable Fire Extinguishers, 115.810
17–1985—Dry Chemical Extinguishing Systems, 118.425
17A–1986—Wet Chemical Extinguishing Systems, 118.425
70–1987—National Electrical Code (NEC)
Section 250 95, 120.370
Section 310–13, 120.340
Section 310–15, 120.340
Article 430, 120.320
Article 445, 120.320
261–1989—Method of Test For Determining Resistance of Mock-up Upholstered Furniture Material Assemblies to ignition by Smoldering Cigarettes, 114.400; 116.423
302–1989—Pleasure and Commercial Motor Craft, Chapter 6, 121.200; 121.240
306–1988—Control of Gas Hazards on Vessels, 115.710
701–1977—Methods of Fire Tests For Flame-Resistant Textiles and RM Films, 116.423
1963–1985—Screw Threads and Gaskets for Fire Hose Connections, 118.320

Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096–0001

SAE J–1928—Devices Providing Backfire Flame Control for Gasoline Engines in Marine Applications, August 1989, 119.415

Underwriters Laboratories Inc. (UL), 12 Laboratory Drive, Research Triangle Park, NC 27709

UL 19–1978—Woven Jacketed, Rubber Lined Fire Hose, 118.320
UL 57–1980—Electric Lighting Fixtures, 120.410
UL 174–1983—Standard for Household Electric Stowage Tank Water Heaters, 119.320
UL 217–1985—Standard for Single and Multiple Station Smoke Detectors, 118.450
UL 486A–1978—Electric Wire Connectors and Soldering Lugs for Use With Copper Conductors, 120.340
UL 489–1986—Molded—Case Circuit Breakers and Circuit Breaker Enclosures, 120.380
UL 595–1980—Marine Type Electric Lighting Fixtures, 120.410
UL 710–1984—Grease Extractors for Exhaust Ducts, 118.425
UL 723–1983—Test for Surface Burning Characteristics of Building Materials, 114.400; 116.422; 116.423; 116.425
UL 1058–1984—Halogenated Agent Fire Extinguishing System Units, 118.410(g)
UL 1102–1980—Non-integral Marine Fuel Tanks, 119.440
UL 1110–1976—Marine Combustible Gas Indicators, 119.480
UL 1111–1988—Marine Carburetor Flame Arrestors, 119.415
UL 1453–1982—Electric Booster and Commercial Storage Tank Water Heaters, 119.320
UL 1570–1988—Fluorescent Lighting Fixtures, 120.410
UL 1571–1984—Incandescent Lighting Fixtures, 120.410
UL 1572–1984—High Intensity Discharge Lighting Fixtures, 120.410
UL 1573–1985—Stage and Studio Lighting Units, 120.410
UL 1574–1987—Track Lighting Systems, 120.410

§ 114.800 Approved equipment and material.

(a) Equipment and material that is required by this subchapter to be approved or of an approved type, must have been manufactured and approved in accordance with the design and testing requirements in subchapter Q (Equipment, Construction, and Materials: Specifications and Approval) of this chapter or as otherwise specified by the Commandant.

(b) Notice regarding equipment approvals is published in the **Federal Register**. Coast Guard publication COMDTINST M16714.3, "Equipment Lists, Items Approved, Certificated or Accepted under Marine Inspection and Navigation Laws", lists approved equipment by type and manufacturer. COMDTINST M16714.3 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

§ 114.900 OMB control numbers.

(a) *Purpose.* This section lists the control numbers assigned to information collection and record keeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of OMB for each approved agency information collection requirement.

(b) Display.

46 CFR section where identified	Current OMB described control No.
115.105(a)	2115–0578.
115.202	2115–0578.
115.204	2115–0578.
115.302	2115–0578.
115.306	2115–0578.
115.310	2115–0578.
115.500(a)	2115–0578.
115.612	2115–0578.
115.700	2115–0578.
115.704	2115–0578.
115.710	2115–0578.
115.810(b)	2115–0578.
115.920(c)	2115–0578.
115.930	2115–0578.
116.202	2115–0578.
116.330	2115–0578.
116.340	2115–0578.
116.520	Will be displayed when assigned by OMB.
116.530	Will be displayed when assigned by OMB.
116.610(f)	2115–0578.
120.220(d)	2115–0578.
120.320(d) and (e)	2115–0578.
121.420	2115–0578.
121.506	2115–0578.
122.202	2115–0003.
122.206	2115–0003.
122.208	2115–0578.
122.220	2115–0578.
122.230	2115–0578.
122.260	2115–0578.
122.280	2115–0578.
122.282	2115–0578.
122.315	2115–0589.
122.335	2115–0589.
122.304(c)	2115–0578.
122.340(c)	2115–0578.
122.402	2115–0578.
122.502	Will be displayed when assigned by OMB.
122.504	2115–0578.
122.506	2115–0578.
122.510	2115–0578.
122.514	2115–0578.
122.515	2115–0578.
122.516	2115–0578.
122.518	2115–0578.
122.602	2115–0578.
122.604	2115–0578.
122.606	2115–0578.
122.608	2115–0578.
122.610	2115–0578.
122.612	2115–0578.
122.70	2115–0578.
122.704(c)	2115–0578.

PART 115—INSPECTION AND CERTIFICATION

Subpart A—Certificate of Inspection

Sec.

115.100 When required.
115.103 Description.
115.105 How to obtain or renew.
115.107 Period of validity.
115.110 Routes permitted.
115.112 Total persons permitted.
115.113 Passengers permitted.
115.114 Alternative requirements for a vessel carrying six or less passengers.
115.120 Certificate of Inspection amendment.

Subpart B—Special Permits and Certificates

115.202 Permit to proceed.
115.204 Permit to carry excursion party.

Subpart C—Posting of certificates, permits, and stability letters

115.302 Certificates and permits.
115.306 Stability letter.
115.310 Certification expiration date stickers.

Subpart D—Inspection for Certification

115.400 General.
115.402 Initial inspection for certification.
115.404 Subsequent inspections for certification.

Subpart E—Reinspection

115.500 When required.
115.502 Scope.

Subpart F—Hull and Tailshaft Examinations

115.600 Drydock and internal structural examination intervals.
115.610 Scope of drydock and internal structural examinations.
115.612 Notice and plans required.
115.630 Tailshaft examinations.
115.670 Extension of examination intervals.

Subpart G—Repairs and Alterations

115.700 Permission for repairs and alterations.
115.702 Installation tests and inspections.
115.704 Breaking of safety valve seals.
115.710 Inspection and testing for gas hazards.

Subpart H—Material Inspections

115.800 Inspection standards.
115.801 Notice of inspection deficiencies and requirements.
115.802 Hull.
115.804 Machinery.
115.806 Electrical.
115.808 Lifesaving.
115.810 Fire protection.
115.812 Pressure vessels and boilers.
115.814 Steering systems.
115.816 Miscellaneous systems and equipment.
115.818 Sanitary inspection.
115.830 Unsafe practices.
115.840 Additional tests and inspections.

Subpart I—International Convention for Safety of Life at Sea, 1974, as Amended (SOLAS)

115.900 Applicability.
115.920 Exemptions.
115.930 Equivalents.

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—Certificate of Inspection

§ 115.100 When required.

(a) A vessel to which this subchapter applies may not be operated without having on board a valid U.S. Coast Guard Certificate of Inspection.

(b) Except as provided in § 115.114, each vessel inspected and certificated under the provisions of this subchapter must, when any passengers are aboard during the tenure of the certificate, be in full compliance with the terms of the certificate.

(c) If necessary to prevent delay of the vessel, a temporary Certificate of Inspection may be issued pending the issuance and delivery of the regular Certificate of Inspection. The temporary certificate must be carried in the same manner as the regular certificate and is considered the same as the regular Certificate of Inspection which it represents.

(d) A vessel on a foreign voyage between a port in the United States and a port in a foreign country, whose Certificate of Inspection expires during the voyage, may lawfully complete the voyage without a valid Certificate of Inspection provided the voyage is completed within 30 days of expiration and the certificate did not expire within 15 days of sailing on the foreign voyage from a U.S. port.

§ 115.103 Description.

The Certificate of Inspection issued to a vessel describes the vessel, the route(s)

which it may travel, the minimum manning requirements, the survival and rescue craft carried, the minimum fire extinguishing equipment and lifejackets required to be carried, the maximum number of passengers and total persons which may be carried, the number of passengers the vessel may carry in overnight accommodation spaces, the name of the owner and managing operator, any equivalencies accepted or authorized by the Commandant or any OCMI under § 114.540 or § 114.550, and such other conditions of operations as may be determined by the cognizant OCMI.

§ 115.105 How to obtain or renew.

(a) A Certificate of Inspection is obtained or renewed by making application for an initial or periodic inspection on Form CG 3752, Application for Inspection of U.S. Vessel, to the Coast Guard OCMI of the marine inspection zone in which the inspection is to be made. Form CG–3752 may be obtained at any U.S. Coast Guard Marine Safety Office or Marine Inspection Office.

(b) The application for initial inspection of a vessel being newly constructed or converted must be submitted prior to the start of the construction or conversion.

(c) The construction, arrangement, and equipment of each vessel must be acceptable to the cognizant OCMI as a prerequisite of the issuance of the initial Certificate of Inspection. Acceptance is based on the information, specifications, drawings and calculations available to the OCMI and on the successful completion of an initial inspection for certification.

(d) A Certificate of Inspection is renewed by the issuance of a new Certificate of Inspection.

(e) The condition of the vessel and its equipment must be acceptable to the cognizant OCMI as a prerequisite to the Certificate of Inspection renewal. Acceptance is based on the condition of the vessel as found at the periodic inspection for certification.

§ 115.107 Period of validity.

(a) A Certificate of Inspection is issued for a period of three years.

(b) A Certificate of Inspection may be suspended and withdrawn or revoked by the cognizant OCMI at any time for noncompliance with the requirements of this subchapter.

§ 115.110 Routes permitted.

(a) The area of operation for each vessel and any necessary operational limits are determined by the cognizant OCMI, and recorded on the vessel's Certificate of Inspection. Each area of operation, referred to as a route, is described on the Certificate of Inspection under the major headings "oceans," "coastwise," "Great Lakes," "lakes, bays, and sounds," or "rivers," as applicable. Further limitations imposed or extensions granted are described by reference to bodies of waters, geographical points, distance from geographical points, distances from land, depths of channel, seasonal limitations, and similar factors.

(b) The maximum allowable distance a dynamically supported craft or a vessel complying with the IMO "Code of Safety for Dynamically Supported Craft" as equivalent to the requirements of this subchapter, as allowed by § 114.540(b) of this subchapter, may operate from a harbor of safe refuge is designated by the cognizant OCMI, but may not be more than 100 nautical miles.

(c) Operation of a vessel on a route of lesser severity than those specifically described or designated on the Certificate of Inspection is permitted unless expressly prohibited on the Certificate of Inspection. The general order of severity of routes is: "oceans," "coastwise," "Great Lakes," "lakes, bays, and sounds," and "rivers." The cognizant OCMI may prohibit a vessel from operating on a route of lesser severity than the primary route a vessel is authorized to operate on if local conditions necessitate such a restriction.

(d) Non-self-propelled vessels are prohibited from operating on an "oceans", "coastwise", or "Great Lakes" route unless the Commandant approves such a route.

(e) When designating a permitted route or imposing any operational limits on a vessel, the OCMI may consider:

(1) Requirements of this subchapter for which compliance is based on the route of the vessel;

(2) The performance capabilities of the vessel based on design, scantlings, stability, subdivision, propulsion, speed, operating modes, maneuverability, other characteristics; and

(3) The suitability of the vessel for night-time operations and use in all weather conditions.

§ 115.112 Total persons permitted.

The cognizant OCMI determines the total number of persons permitted to be carried on a vessel. In determining the total number of persons permitted to be carried, the OCMI may consider stability restrictions and subdivision requirements of the vessel, the vessel's route, general arrangement, means of escape, lifesaving equipment, the minimum manning requirements, and the maximum number of passengers permitted in accordance with § 115.113.

§ 115.113 Passengers permitted.

(a) The maximum number of passengers permitted to be carried on a vessel is determined by the cognizant OCMI. The maximum number permitted must be not more than that allowed by the requirements of this section, except as authorized by the OCMI under paragraph (d) of this section.

(b) The maximum number of passengers permitted on any vessel may be the greatest number permitted by the length of rail criterion, deck area criterion, or fixed seating criterion described in this paragraph or a combination of these criteria as allowed by paragraph (c) of this section.

(1) *Length of rail criterion.* One passenger may be permitted for each 30 inches of rail space available to the passengers at the periphery of each deck. The following rail space may not be used in determining the maximum number of passengers permitted:

(i) Rail space in congested areas unsafe for passengers, such as near anchor handling equipment or line handling gear, in the way of sail booms, running rigging, or paddle wheels, or along pulpits;

(ii) Rail space on stairways; and

(iii) Rail space where persons standing in the space would block the line of vision of the licensed individual operating the vessel.

(2) *Deck area criterion.* One passenger may be permitted for each 10 square feet of deck area available for the passengers' use. In computing such deck area, the areas occupied by the following must be excluded:

(i) Concession stands, fixed tables, fixed gambling equipment, and similar furnishings;

(ii) Toilets and washrooms;

(iii) Companionways and stairways;

(iv) Spaces occupied by and necessary for handling lifesaving equipment, anchor handling equipment or line handling gear, or in the way of sail booms or running rigging;

(v) Spaces below deck which are unsuitable for passengers or which would not normally be used by passengers;

(vi) Interior passageways less than 30 inches wide and passageways on open deck, less than 18 inches wide;

(vii) Bow pulpits, swimming platforms and areas which do not have a solid deck, such as netting on multi-hull vessels;

(viii) Deck areas in way of paddle wheels; and

(ix) Aisle area provided in accordance with § 116.820(d).

(3) *Fixed seating criterion.* One passenger may be permitted for each 18 inches of width of fixed seating provided under § 116.820 of this subchapter. Each sleeping berth in overnight accommodation spaces shall be counted as only one seat.

(c) Different passenger capacity criteria may be used on each deck of a vessel and added together to determine the total passenger capacity of that vessel. Where seats are provided on part of a deck and not on another, the number of passengers permitted on a vessel may be the sum of the number permitted by the seating criterion for the space having seats and the number permitted by the deck area criterion for the space having no seats. The length of rail criterion must not be combined with either the deck area criterion or the fixed seating criterion on an individual deck.

(d) For a vessel operating on short runs on protected waters such as a ferry, the cognizant OCMI may give special consideration to increases in passenger allowances.

§ 115.114 Alternative requirements for a vessel carrying six or less passengers.

(a) When authorized by the cognizant OCMI by an endorsement of the vessel's Certificate of Inspection, a small passenger vessel carrying six or less passengers, and operating as a commercial fishing vessel or other uninspected vessel or as a recreational vessel, need not meet requirements of:

(1) Part 117, subpart C, D, and E of this subchapter providing the vessel is in satisfactory compliance with the lifesaving equipment regulations for an uninspected vessel or recreational vessel in a similar service;

(2) Part 116, subpart C of this subchapter and subchapter S of this chapter providing the vessel is in satisfactory compliance with applicable regulations for an uninspected vessel or recreational vessel in a similar service or if the owner of the vessel otherwise establishes to the satisfaction of the cognizant OCMI that the vessel is seaworthy for the intended service; and

(3) Sections 121.404, 121.408, and 121.410 of this subchapter providing the vessel is in satisfactory compliance with any navigational equipment requirements for an uninspected or recreational vessel in a similar service.

(b) A vessel operating under the alternative regulations of paragraph (a) of this section must:

(1) Not alter the arrangement of the vessel nor remove any equipment required by the certificate for the intended operation, without the consent of the cognizant OCMI;

(2) Comply with minimum manning specified on the Certificate of Inspection, which may include reduced manning for when the vessel carries not more than six passengers;

(3) When carrying from one to six passengers, make the announcement required by § 122.506(a)(9) of this subchapter before getting underway; and

(4) If a vessel of more than 15 gross tons, not carry freight for hire.

(c) The endorsement issued under paragraph (a) of this section must indicate the maximum route, number of passengers, and the manning required to operate under the provisions of this section.

§ 115.120 Certificate of Inspection amendment.

(a) An amended Certificate of Inspection may be issued at any time by any OCMI. The amended Certificate of Inspection replaces the original, but the expiration date remains the same as that of the original. An amended Certificate of Inspection may be issued to authorize and record a change in the dimensions, gross tonnage, owner, managing operator, manning, persons permitted, route permitted, conditions of operations, or equipment of a vessel, from that specified in the current Certificate of Inspection.

(b) A request for an amended Certificate of Inspection must be made to the cognizant OCMI by the owner or managing operator of the vessel at any time there is a change in the character of a vessel or in its route, equipment, ownership, operation, or other similar factors specified in its current Certificate of Inspection.

(c) The OCMI may require an inspection prior to the issuance of an amended Certificate of Inspection.

Subpart B—Special Permits and Certificates

§ 115.202 Permit to proceed.

(a) When a vessel is not in compliance with its certificate of inspection or fails to comply with a regulation of this subchapter, the cognizant OCMI may permit the vessel to proceed to another port for repair if, in the judgment of the OCMI, the trip can be completed safely, even if the Certificate of Inspection of the vessel has expired or is about to expire.

(b) Form CG–948, "Permit to Proceed to another Port for Repairs," may be issued by the cognizant OCMI to the owner, managing operator, or the master of the vessel stating the conditions under which the vessel may proceed to another port. The permit may be issued only upon the written application of the owner, managing operator, or master, and after the vessel's Certificate of Inspection is turned over to the OCMI.

(c) A vessel may not carry passengers when operating in accordance with a permit to proceed, unless the cognizant OCMI determines that it is safe to do so.

§ 115.204 Permit to carry excursion party.

(a) The cognizant OCMI may permit a vessel to engage in a temporary excursion operation with a greater number of persons or on a more extended route, or both, than permitted by its Certificate of Inspection when, in the opinion of the OCMI, the operation can be undertaken safely.

(b) Upon the written application of the owner or managing operator of the vessel, the cognizant OCMI may issue a "Permit To Carry Excursion Party", Form CG–949, to indicate his or her permission to carry an excursion party. The OCMI will indicate on the permit the conditions under which it is issued, the number of persons the vessel may carry, the crew required, any additional lifesaving or safety equipment required, the route for which the permit is granted, and the dates on which the permit is valid.

(c) The number of passengers normally permitted on an excursion vessel is governed by § 115.113.

(d) The OCMI shall not normally waive the applicable minimum safety standards when issuing an excursion permit. In particular, a vessel which is being issued an excursion permit should meet the minimum stability, survival craft, fire safety, and manning standards applicable to a vessel in the service for which the excursion permit is requested.

(e) The permit acts as a temporary, limited duration supplement to the vessel's Certificate of Inspection and must be carried with the Certificate of Inspection. A vessel operating under a permit to carry an excursion party must be in full compliance with the terms of its Certificate of Inspection as supplemented by the permit.

(f) The OCMI may require an inspection prior to the issuance of a permit to carry an excursion party.

Subpart C—Posting of Certificates, Permits, and Stability Letters

§ 115.302 Certificates and permits.

The Certificate of Inspection and any SOLAS Certificates must be posted under glass or other suitable transparent material, such that all pages are visible, in a conspicuous place on the vessel where observation by passengers is likely. If posting is impracticable, such

as on open boats, the certificates must be kept on board in a weathertight container readily available for use by the crew and for display to passengers and others on request.

§ 115.306 Stability letter.

When, in accordance with § 170.120 of this chapter, a vessel must be provided with a stability letter, the stability letter must be posted under glass or other suitable transparent material, such that all pages are visible, at the operating station of the vessel. If posting is impracticable, the stability letter must be kept on board in a weathertight container readily available for use by the crew and for display to passengers and others on request.

§ 115.310 Certification expiration date stickers.

(a) A Certification Expiration Date Sticker indicates the date upon which the vessel's Certificate of Inspection expires and is provided by the cognizant OCMI in the number required, upon issuance or renewal of the Certificate of Inspection.

(b) A vessel that is issued a Certificate of Inspection under the provisions of this subchapter must not be operated without a valid Certification Expiration Date Sticker affixed to the vessel on a place that is:

(1) A glass or other smooth surface from which the sticker may be removed without damage to the vessel;

(2) Readily visible to each passenger prior to boarding the vessel and to patrolling Coast Guard law enforcement personnel; and

(3) Acceptable to the Coast Guard marine inspector.

(c) The Coast Guard marine inspector may require the placement of more than one sticker in order to insure compliance with paragraph (a)(2) of this section.

Subpart D—Inspection for Certification

§ 115.400 General.

(a) An inspection is required before the issuance of a Certificate of Inspection. Such an inspection for certification is not made until after receipt of the application for inspection required by § 115.105.

(b) Upon receipt of a written application for inspection, the cognizant OCMI assigns a marine inspector to inspect the vessel for compliance with this subchapter at a time and place mutually agreed upon by the OCMI and the owner, managing operator, or representative thereof.

(c) The owner, managing operator, or a representative thereof shall be present during the inspection.

§ 115.402 Initial inspection for certification.

(a) Before construction or conversion of a vessel intended for small passenger vessel service, the owner of the vessel shall submit plans, manuals, and calculations indicating the proposed arrangement, construction, and operations of the vessel, to the cognizant OCMI for approval, except when submitted to the Marine Safety Center as allowed by part 116 of this subchapter, unless otherwise allowed by the OCMI. The plans, manuals, and calculations required to be submitted and the disposition of these plans are set forth in part 116, subpart B of this subchapter.

(b) The initial inspection is conducted to determine that the vessel and its equipment comply with applicable regulations and that the vessel was built or converted in accordance with approved plans, manuals, and calculations. Additionally, during the inspection the materials, workmanship, and condition of all parts of the vessel and its machinery and equipment may be checked to determine if the vessel is satisfactory in all respects for the service intended.

(c) The owner or managing operator of a vessel shall ensure that the vessel complies with the laws and regulations applicable to the vessel and that the vessel is otherwise satisfactory for the intended service. The initial inspection may include an inspection of the following items:

(1) The arrangement, installation, materials, and scantlings of the structure including the hull and superstructure, yards, masts, spars, rigging, sails, piping, main and auxiliary machinery, pressure vessels, steering apparatus, electrical installations, fire resistant construction materials, lifesaving appliances, fire detecting and extinguishing equipment, pollution prevention equipment, and all other equipment;

(2) Arrangement and means of emergency egress;

(3) Sanitary conditions and fire hazards; and

(4) Certificates and operating manuals, including certificates issued by the Federal Communications Commission.

(d) During an initial inspection for certification the owner or managing operator shall conduct all tests and make the vessel available for all applicable inspections discussed in this paragraph, and in subpart H of this part, to the satisfaction of the cognizant OCMI, including the following:

(1) The installation of each rescue boat and survival craft launching appliance required by § 71.20–20(a)(1) of this chapter.

(2) The installation of each rescue boat, liferaft, inflatable buoyant apparatus, and launching appliance as listed on its Certificate of Approval (Form CGHQ–10030).

(3) Machinery, fuel tanks, and pressure vessels required by part 119 of this subchapter.

(4) A stability test when required by § 170.175 of this chapter.

(5) Watertight bulkheads as required by subchapter S of this chapter.

(6) Firefighting systems as required by part 118 of this subchapter.

(7) The operation of all smoke and fire detecting systems, fire alarms and sensors, and fire confining appliances (such as fire screen doors and fire dampers).

§ 115.404 Subsequent inspections for certification.

An inspection for renewal of a Certificate of Inspection normally includes inspection and testing of the structure, machinery, equipment, and on a sailing vessel, rigging and sails. The owner or managing operator shall conduct all tests as required by the marine inspector, and make the vessel available for all specific inspections and drills required by subpart H of this part. The inspection is conducted to determine if the vessel is in satisfactory condition, fit for the service intended, and complies with the applicable regulations in this subchapter.

Subpart E—Reinspection

§ 115.500 When required.

(a) The owner or managing operator shall make a vessel available for reinspections within 60 days of each anniversary of the date of issuance of the Certificate of Inspection during each triennial inspection period. The owner or managing operator shall contact the cognizant OCMI to arrange for a reinspection to be conducted at a time and place acceptable to the OCMI.

(b) In addition to the requirements of paragraph (a) of the section, a reinspection may be made at such other times as may be required by the cognizant OCMI.

§ 115.502 Scope.

In general, the scope of the reinspection is the same as the inspection for certification but in less detail unless it is determined that a major change has occurred since the last inspection for certification.

Subpart F—Hull and Tailshaft Examinations

§ 115.600 Drydock and internal structural examination intervals.

(a) The owner or managing operator shall make a vessel available for drydock examinations and internal structural examinations required by this section.

(b) A vessel making an international voyage must undergo a drydock examination and an internal structural examination at least once every 12 months. If the vessel becomes due for a drydock examination or an internal structural examination during the voyage, it may lawfully complete the voyage prior to the examination if it undergoes the required examination upon completion of the voyage to the United States but not later than 30 days after the examination is due. If the vessel is due for an examination within 15 days of sailing on an international voyage from a United States port, it must undergo the required examination before sailing.

(c) Except as provided in paragraph (d) and (e) of this section, a vessel not making an international voyage must undergo a drydock examination and an internal structural examination as follows:

(1) A vessel which is exposed to salt water more than three months in any 12 month period since the last examination must undergo a drydock examination and an internal structural examination at least once every two years; and

(2) A vessel which is exposed to salt water not more than three months in any 12 month period since the last examination must undergo a drydock examination and an internal structural examination at least once every five years.

(d) Whenever damage or deterioration to hull plating or structural members which may affect the seaworthiness of a vessel is discovered or suspected, the cognizant OCMI may conduct an internal structural examination in any affected space, including fuel tanks, and require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(e) Whenever a vessel is drydocked or hauled out other than as required by this section, the owner or operator must notify the cognizant OCMI so that a marine inspector may examine the vessel.

§ 115.610 Scope of drydock and internal structural examinations.

(a) A drydock examination conducted in compliance with § 115.600 must be conducted while the vessel is hauled out of the water or placed in a drydock or slipway. During the examination all accessible parts of the vessel's underwater body and all through hull fittings, including the hull plating, appendages, propellers, shafts, bearings, rudders, sea chests, sea valve, and sea strainers must be examined. Sea chests, sea valves, and sea strainers must be opened for examination.

(b) An internal structural examination conducted in compliance with § 115.600 may be conducted while the vessel is afloat or out of the water and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast, cargo, and fuel oil tanks. Where the internal framing or plating of the vessel is concealed, sections of the lining, ceiling or insulation may be removed or the parts otherwise probed or exposed so that the inspector may be satisfied as to the condition of the hull structure. Fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

§ 115.612 Notice and plans required.

(a) The owner or managing operator shall notify the cognizant OCMI as far in advance as possible whenever a vessel is to be hauled out or placed in a drydock or slipway in compliance with § 115.600 or to undergo repairs or alterations affecting the safety of the vessel, together with the nature of any repairs or alterations contemplated. Hull repairs or alterations which affect the safety of the vessel include but are not limited to the replacement, repair, or refastening of planking, plating, or structural members, including the repair of cracks in the hull.

(b) Whenever a vessel is hauled out or placed in a drydock or slipway in excess of the requirements of this subpart for the purpose of maintenance, such as changing a propeller, painting, or cleaning the hull, no report need be made to the cognizant OCMI.

(c) The owner or managing operator of each vessel that holds a Load Line Certificate shall make plans showing the vessel's scantlings available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination or internal structural examination or whenever repairs or alterations affecting the safety or seaworthiness of the vessel are made to the vessel's hull.

§ 115.630 Tailshaft examinations.

The marine inspector may require any part or all of the propeller shafting to be drawn for examination of the shafting and stern bearing of a vessel whenever the condition of the shafting and bearings are in question. The inspector may conduct a visual examination and may require nondestructive testing of the tailshaft.

§ 115.670 Extension of examination intervals.

The intervals between drydock examinations and internal structural examinations specified in § 115.600 may be extended by the Commandant. Requests for extensions must be submitted to the Commandant via the cognizant OCMI.

Subpart G—Repairs and Alterations

§ 115.700 Permission for repairs and alterations.

(a) Repairs or alterations to the hull, machinery, or equipment which affect the safety of the vessel must not be made without the approval of the cognizant OCMI, except during an emergency. When repairs are made during an emergency, the owner, managing operator, or master shall notify the OCMI as soon as practicable after such repairs or alterations are made. Repairs or alterations which affect the safety of the vessel include, but are not limited to, the: Replacement, repair, or refastening of deck or hull planking, plating, and structural members; repair of plate or frame cracks; damage repair or replacement, other than replacement in kind, of electrical wiring, fuel lines, tanks, boilers and other pressure vessels, and steering, propulsion and power supply systems; alterations affecting stability; and repair or alteration of lifesaving, fire detecting, or fire extinguishing equipment.

(b) The owner or managing operator shall submit drawings, sketches, or written specifications describing the details of any proposed alterations to the cognizant OCMI. Proposed alterations must be approved by the OCMI before work is started.

(c) Drawings are not required to be submitted for repairs or replacements in kind.

(d) The OCMI may require an inspection and testing whenever a repair or alteration is undertaken.

§ 115.702 Installation tests and inspections.

Whenever a launching appliance, survival craft, rescue boat, fixed fire extinguishing equipment, machinery, fuel tank, or pressure vessel is installed aboard a vessel after completion of the initial inspection for certification of the vessel, as replacement equipment or as

a new installation, the owner or managing operator shall conduct the tests and make the vessel ready for the inspections required by § 115.402(d) to the satisfaction of the cognizant OCMI.

§ 115.704 Breaking of safety valve seals.

The owner, managing operator, or master shall notify the cognizant OCMI as soon as practicable after the seal on a boiler safety valve on a vessel is broken.

§ 115.710 Inspection and testing for gas hazards.

(a) An inspection must be conducted in accordance with the provisions of NFPA 306 before alterations, repairs, or other operations involving riveting, welding, burning, or other fire producing actions may be made aboard a vessel:

(1) Within or on the boundaries of fuel tanks; or

(2) To pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks.

(b) An inspection required by paragraph (a) of this section must be conducted as required by this paragraph.

(1) In ports or places in the United States or its territories and possessions, the inspection must be conducted by a marine chemist certificated by the National Fire Protection Association. However, if the services of a certified marine chemist are not reasonably available, the cognizant OCMI, upon the recommendation of the vessel owner or managing operator, may authorize another person to inspect the vessel. If the inspection indicates that the operations can be undertaken safely, a certificate setting forth this fact in writing must be issued by the certified marine chemist or the authorized person before the work is started. The certificate must include any requirements necessary to reasonably maintain safe conditions in the spaces certified throughout the operation, including any precautions necessary to eliminate or minimize hazards that may be present from protective coatings or residues from cargoes.

(2) When not in a port or place in the United States or its territories and possessions, and when a marine chemist or a person authorized by the cognizant OCMI is not reasonably available, the master shall conduct the inspection and enter the results of the inspection in the vessel's logbook.

(c) The owner, managing operator, or master shall obtain a copy of certificates issued by the certified marine chemist or the other person authorized by the cognizant OCMI, and shall ensure that all conditions on the certificates are observed and that the vessel is maintained in a safe condition. The owner, managing operator, or master shall maintain a safe condition on the vessel by requiring full observance, by persons under his or her control, of all requirements listed in the certificate.

Subpart H—Material Inspections

§ 115.800 Inspection standards.

(a) A vessel is inspected for compliance with the standards required by this subchapter. Machinery, equipment, materials, and arrangements not covered by standards in this subchapter may be inspected in accordance with standards acceptable to the cognizant OCMI as good marine practice.

(b) In the application of inspection standards due consideration must be given to the hazards involved in the operation permitted by a vessel's Certificate of Inspection. Thus, the standards may vary in accordance with the vessel's area of operation or any other operational restrictions or limitations.

(c) The published standards of classification societies and other recognized safety associations may be used as guides in the inspection of vessels when such standards do not conflict with the requirements of this subchapter.

§ 115.801 Notice of inspection deficiencies and requirements.

(a) If during the inspection of a vessel, the vessel or its equipment is found not to conform to the requirements of law or the regulations in this subchapter, the marine inspector will point out deficiencies observed and discuss all requirements with the owner, managing operator, or a representative thereof. Normally, the marine inspector will list all such requirements which have not been completed and present the list to the owner, managing operator, or a representative thereof.

(b) In any case where further clarification of or reconsideration of any requirement placed against the vessel is desired, the owner, managing operator, or a representative thereof, may discuss the matter with the cognizant OCMI.

§ 115.802 Hull.

(a) At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of the hull structure and its appurtenances, including the following:

(1) Inspection of all accessible parts of the exterior and interior of the hull, the watertight bulkheads, and weather decks;

(2) Inspection and operation of all watertight closures in the hull, decks, and bulkheads including through hull fittings and sea valves;

(3) Inspection of the condition of the superstructure, masts, and similar arrangements constructed on the hull, and on a sailing vessel all spars, standing rigging, running rigging, blocks, fittings, and sails;

(4) Inspection of all railings and bulwarks and their attachment to the hull structure;

(5) Inspection to ensure that guards or rails are provided in dangerous places;

(6) Inspection and operation of all weathertight closures above the weather deck and the provisions for drainage of sea water from the exposed decks; and

(7) Inspection of all interior spaces to ensure that they are adequately ventilated and drained, and that means of escape are adequate and properly maintained.

(b) The vessel must be afloat for at least a portion of the inspection as required by the marine inspector.

(c) When required by the marine inspector, a portion of the inspection must be conducted while the vessel is underway so that the working of the hull can be observed.

§ 115.804 Machinery.

At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of machinery, fuel, and piping systems, including the following:

(a) Operation of the main propulsion machinery both ahead and astern;

(b) Operational test and inspection of engine control mechanisms including primary and alternate means of starting machinery;

(c) Inspection of all machinery essential to the routine operation of the vessel including generators and cooling systems;

(d) External inspection of fuel tanks and inspection of tank vents, piping, and pipe fittings;

(e) Inspection of all fuel systems;

(f) Operational test of all valves in fuel lines by operating locally and at remote operating positions;

(g) Operational test of all overboard discharge and intake valves and watertight bulkhead pipe penetration valves;

(h) Operational test of the means provided for pumping bilges; and

(i) Test of machinery alarms including bilge level alarms.

§ 115.806 Electrical.

At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspection of electrical equipment and systems, including the following:

(a) Inspection of all cable as far as practicable without undue disturbance of the cable or electrical apparatus;

(b) Test of circuit breakers by manual operation;

(c) Inspection of fuses including ensuring the ratings of fuses are suitable for the service intended;

(d) Inspection of rotating electrical machinery essential to the routine operation of the vessel;

(e) Inspection of all generators, motors, lighting fixtures and circuit interrupting devices located in spaces or areas which may contain flammable vapors;

(f) Inspection of batteries for condition and security of stowage;

(g) Operational test of electrical apparatus, which operates as part of or in conjunction with a fire detection or alarm system installed on board the vessel, by simulating, as closely as practicable, the actual operation in case of fire; and

(h) Operational test of all emergency electrical systems.

§ 115.808 Lifesaving.

(a) At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of lifesaving equipment and systems, including the following:

(1) Tests of each rescue boat and each rescue boat launching appliance and survival craft launching appliance in accordance with § 71.25–15 of subchapter H (Passenger Vessels) of this chapter;

(2) Inspection of each lifejacket, work vest, and marine buoyant device;

(3) If used, inspection of the passenger safety orientation cards or pamphlets allowed by § 122.506(c) of this subchapter;

(4) Inspection of each inflatable liferaft and inflatable lifejacket to determine that it has been serviced as required by § 122.730 of this subchapter; and

(5) Inspection of each hydrostatic release unit to determine that it is in compliance with the servicing and usage requirements of § 122.740 of this subchapter.

(b) Each item of lifesaving equipment determined by the marine inspector to not be in serviceable condition must be repaired or replaced.

(c) Each item of lifesaving equipment with an expiration date on it must be replaced if the expiration date has passed.

(d) The owner or managing operator shall destroy, in the presence of the marine inspector, each lifejacket, other personal floatation device, and other lifesaving device found to be defective and incapable of repair.

(e) At each initial and subsequent inspection for certification of a vessel, the vessel must be equipped with an adult size lifejacket for each person authorized. The vessel must also be equipped with child size lifejackets equal to at least 10 percent of the maximum number of passengers permitted to be carried unless children are prohibited from being carried aboard the vessel.

(f) Lifejackets, work vests, and marine buoyant devices may be marked with the date and marine inspection zone to indicate that they have been inspected and found to be in serviceable condition by a marine inspector.

(g) At each initial and subsequent inspection for certification, the marine inspector may require that an abandon ship or man overboard drill be held under simulated emergency conditions specified by the inspector.

§ 115.810 Fire protection.

(a) At each initial and subsequent inspection for certification, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspection of its fire protection equipment, including the following:

(1) Inspection of each hand portable fire extinguisher, semiportable fire extinguisher, and fixed gas fire extinguishing system to check for excessive corrosion and general condition;

(2) Inspection of piping, controls, and valves, and the inspection and testing of alarms and ventilation shutdowns, for each fire extinguishing system and detecting system to determine that the system is in operating condition;

(3) Operation of the fire main system and checking of the pressure at the most remote and highest outlets;

(4) Testing of each firehose to a test pressure equivalent to its maximum service pressure;

(5) Checking of each cylinder containing compressed gas to ensure it has been tested and marked in accordance with part 147, § 147.60 of this chapter;

(6) Testing or renewal of flexible connections and discharge hoses on semiportable extinguishers and fixed gas extinguishing systems in accordance with part 147, § 147.65 of this chapter; and

(7) Inspection and testing of smoke and fire detecting systems (including sensors and alarms) and fire confining appliances (such as fire screen doors and fire dampers).

(b) The owner, managing operator, or a qualified servicing facility as applicable shall conduct the following inspections and tests:

(1) For portable fire extinguishers, the inspections, maintenance procedures, and hydrostatic pressure tests required by chapter 4 of NFPA 10 with the frequency specified by NFPA 10. In addition, carbon dioxide and halon portable fire extinguishers must be refilled when the net content weight loss exceeds that specified for fixed systems by Table 115.810(b). The owner or managing operator shall provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility may be required to perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(2) For semiportable and fixed systems, the inspections and tests required by Table 115.810(b), in addition to the tests required by part 147, § 147.60 of this chapter. The owner or managing operator shall provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility may be required to perform the required inspections, maintenance procedures, and hydrostatic pressure tests.

TABLE 115.810(b).—SEMIPORTABLE AND FIXED SYSTEMS

Type system	Test
Carbon dioxide.	Weigh cylinders. Recharge if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to be sure they are clean.

TABLE 115.810(b).—SEMIPORTABLE AND FIXED SYSTEMS—Continued

Type system	Test
Halon	Weigh cylinders. Recharge if weight loss exceeds 5% of weight of charge. If the system has a pressure gauge, also recharge if pressure loss (adjusted for temperature) exceeds 10%. Test time delays, alarms and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to be sure they are clean.
Dry Chemical.	Examine pressure cartridge and replace (cartridge operated) if end is punctured or if determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Ensure dry chemical is free flowing (not caked) and extinguisher contains full charge.
Dry chemical (stored pressure).	See that pressure gauge is in operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with dry chemical. Recharge if pressure is low or if dry chemical is needed.
Foam (cartridge operated).	Examine pressure cartridge and replace if end is punctured or if determined to have leaked or to be in unsuitable condition. Ensure extinguisher contains full charge. Replace premixed agent every 3 years.
Foam (stored pressure).	See that pressure gauge, if so equipped, is in the operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge if pressure is low or if foam is needed. Replace premixed agent every 3 years.

(c) The owner, managing operator, or master shall destroy, in the presence of the marine inspector, each fire hose found to be defective and incapable of repair.

(d) At each initial and subsequent inspection for certification, the marine inspector may require that a fire drill be held under simulated emergency conditions to be specified by the inspector.

§ 115.812 Pressure vessels and boilers.

(a) Periodic inspection and testing requirements for pressure vessels are contained in part 61, subpart 61.10 of this chapter.

(b) Periodic inspection and testing requirements for boilers are contained in part 61, subpart 61.05 of this chapter.

§ 115.814 Steering systems.

At each initial and subsequent inspection for certification the owner or managing operator shall be prepared to test the steering systems of the vessel and make them available for inspection to the extent necessary to determine that they are in suitable condition and fit for the service intended. Servo-type power systems, such as orbitrol systems, must be tested and capable of smooth operation by a single person in the manual mode, with hydraulic pumps secured.

§ 115.816 Miscellaneous systems and equipment.

At each initial and subsequent inspection for certification the owner or managing operator shall be prepared to test and make available for inspection all items in the ship's outfit, such as ground tackle, navigation lights and equipment, markings, and placards, which are required to be carried by the regulations in this subchapter, as necessary to determine that they are fit for the service intended.

§ 115.818 Sanitary inspection.

At each inspection for certification and at every other vessel inspection, quarters, toilet and washing spaces, galleys, serving pantries, lockers, and similar spaces may be examined to determine that they are serviceable and in a sanitary condition.

§ 115.830 Unsafe practices.

(a) At each inspection for certification and at every other vessel inspection all observed unsafe practices, fire hazards, and other hazardous situations must be corrected and all required guards and protective devices must be in satisfactory condition.

(b) At each inspection for certification and at every other vessel inspection the bilges and other spaces may be examined to see that there is no accumulation of oil, trash, debris, or other matter which might create a fire hazard, clog bilge pumping systems, or block emergency escapes.

§ 115.840 Additional tests and inspections.

The cognizant OCMI may require that a vessel and its equipment undergo any additional test or inspection deemed necessary to determine that the vessel and its equipment are suitable for the service in which they are to be employed.

Subpart I—International Convention for Safety of Life at Sea, 1974, as Amended (SOLAS)

§ 115.900 Applicability.

(a) Except as otherwise provided in this subpart, a mechanically propelled vessel of the United States, which carries more than 12 passengers on an international voyage must be in compliance with the applicable requirements of the SOLAS, to which the United States Government is currently a party.

(b) SOLAS does not apply to a vessel solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd Meridian.

§ 115.910 Passenger Ship Safety Certificate.

(a) A vessel which carries more than 12 passengers on an international voyage must have a valid SOLAS Passenger Ship Safety Certificate. The Commandant issues the original SOLAS Passenger Ship Safety Certificate after receiving notification from the cognizant OCMI that the vessel complies with the applicable SOLAS regulations. Subsequent SOLAS Passenger Ship Safety Certificates are issued by the cognizant OCMI unless any changes to the vessel or its operations have occurred which changes the information on the certificate, in which case the Commandant will reissue the certificate.

(b) The route specified on the Certificate of Inspection and the SOLAS Passenger Ship Safety Certificate must agree.

(c) A SOLAS Passenger Ship Safety Certificate is issued for a period of not more than 12 months.

(d) The SOLAS Passenger Ship Safety Certificate may be withdrawn, revoked, or suspended at any time when the vessel is not in compliance with applicable SOLAS requirements.

§ 115.920 Exemptions.

(a) In accordance with Regulation 4, Chapter I (General Provisions) of SOLAS, the Commandant may exempt a vessel, which is not normally engaged on an international voyage but which in exceptional circumstances is required to undertake a single international voyage, from any of the requirements of SOLAS provided that the vessel complies with safety requirements which are adequate in the Commandant's opinion for the voyage which is to be undertaken.

(b) In accordance with Chapter II–1 (Construction—Subdivision and

Stability, Machinery and Electrical Installations) Regulation 1, Chapter II–2 (Construction—Fire Protection, Fire Detection and Fire Extinction) Regulation 1, and Chapter III (Life Saving Appliances and Arrangements) Regulation 2 of SOLAS, the Commandant may exempt a vessel which does not proceed more than 20 miles from the nearest land from any of the specific requirements of Chapters II–1, II–2, and II of SOLAS if the Commandant determines that the sheltered nature and conditions of the voyage are such as to render the application of such requirements unreasonable or unnecessary.

(c) The Commandant may exempt a vessel from requirements of the regulations of SOLAS in accordance with paragraphs (a) and (b) of this section upon a written request from the owner or managing operator submitted to the Commandant via the cognizant OCMI.

(d) When the Commandant grants an exemption to a vessel in accordance with this section, the Commandant will issue the original SOLAS Exemption Certificate describing the exemption. Subsequent SOLAS Exemption Certificates are issued by the cognizant OCMI unless any changes to the vessel or its operations have occurred which changes the information on the SOLAS Exemption or Passenger Ship Safety Certificates, in which case the Commandant shall reissue the certificate. A SOLAS Exemption Certificate is not valid for longer than the period of the SOLAS Passenger Ship Safety Certificate to which it refers.

§ 115.930 Equivalents.

In accordance with Regulation 5, Chapter I (General Provisions) of SOLAS, the Commandant may accept an equivalent to a particular fitting, material, appliance, apparatus, or any particular provision required by the SOLAS regulations if satisfied that such equivalent is at least as effective as that required by the regulations. An owner or managing operator of a vessel may submit a request for the acceptance of an equivalent following the procedures in § 114.540 of this subchapter. The Commandant will indicate the acceptance of an equivalent on the vessel's SOLAS Passenger Ship Safety Certificate.

PART 116—CONSTRUCTION AND ARRANGEMENT

Subpart A—General Provisions

Sec.

116.100 General requirements.
116.115 Applicability to existing vessels.

Subpart B—Plans

116.202 Plans and information required.
116.210 Plans for sister vessels.

Subpart C—Hull Structure

116.300 Structural design.
116.330 Sailing vessels.
116.340 Alternate design considerations.

Subpart D—Fire Protection

116.400 Application.
116.405 General arrangement and outfitting.
116.415 Fire control boundaries.
116.422 Ceilings, linings, trim, interior finish and decorations.
116.423 Furniture and furnishings.
116.425 Deck coverings.
116.427 Fire load of accommodation spaces.
116.430 Insulation other than for structural fire protection.
116.433 Windows and air ports in fire control boundaries.
116.435 Doors.
116.436 Stairtowers, stairways, ladders, and elevators.
116.439 Balconies.
116.440 Atriums.

Subpart E—Escape and Embarkation Station Requirements

116.500 Means of escape.
116.510 Embarkation stations.
116.520 Emergency evacuation plan.
116.530 Fire control plan.

Subpart F—Ventilation

116.600 Ventilation of enclosed and partially enclosed spaces.
116.610 Ventilation ducts.
116.620 Ventilation of machinery and fuel tank spaces.

Subpart G—Crew Spaces

116.700 General requirements.
116.710 Overnight accommodations.
116.730 Crew accommodations on vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers.

Subpart H—Passenger Accommodations

116.800 General requirements.
116.810 Overnight accommodations.
116.820 Seating.

Subpart I—Rails and Guards

116.900 Deck rails.
116.920 Storm rails.
116.940 Guards in vehicle spaces.
116.960 Guards for exposed hazards.
116.970 Protection against hot piping.

Subpart J—Window Construction and Visibility

116.1010 Safety glazing materials.
116.1020 Strength.
116.1030 Operating station visibility.

Subpart K—Drainage and Watertight Integrity of Weather Decks

116.1110 Drainage of flush deck vessels.
116.1120 Drainage of cockpit vessels, well deck vessels, and open boats.
116.1160 Watertight integrity.

Subpart L—Ballast Systems

116.1200 Ballast.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 116.100 General requirements.

(a) The construction and arrangement of a vessel must allow the safe operation of the vessel in accordance with the terms of its certificate of inspection giving consideration to provisions for a seaworthy hull, protection against fire, means of escape in case of a sudden unexpected casualty, guards and rails in hazardous places, ventilation of enclosed spaces, and necessary facilities for passengers and crew.

(b) Vessels to which this subchapter applies must meet the applicable provisions in subchapter S (Subdivision and Stability) of this chapter, except that the requirements in subpart K of this part may be met in lieu of the requirements of §§ 171.124 through 171.155 of subchapter S.

§ 116.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraph (b) of this section, an existing vessel must comply with the construction and arrangement regulations which were applicable to the vessel on [date of day before effective date of the final rule] or, as an alternative, the vessel may comply with the regulations in this part.

(b) Alterations or modifications which are not a major conversion, made to the structure or arrangements, regulated by this part, of an existing vessel on or after [effective date of the final rule] must comply with the regulations of this part. Repairs or maintenance conducted on an existing vessel, resulting in no significant changes to the original structure or arrangement of the vessel, must comply with the regulations applicable to the vessel on [date of day before effective date of the final rule] or, as an alternative, with the regulations in this part. However, when outfit items such as furnishings and mattresses are renewed, they must comply with the regulations in this part.

Subpart B—Plans

§ 116.202 Plans and information required.

(a) Except as provided in § 116.210, the owner of a vessel requesting initial inspection for certification shall, prior to the start of construction unless otherwise allowed by the cognizant OCMI, submit for approval to the cognizant OCMI, at least two copies of the following plans, manuals, analyses,

and calculations that are applicable to the vessel as determined by the OCMI:

(1) Midship section;

(2) Outboard profile;

(3) Inboard profile;

(4) Arrangement of decks;

(5) Structural fire protection details;

(6) Emergency evacuation plan required under § 116.520, with drawings showing embarkation stations, areas of refuge, and escape routes;

(7) Machinery installation;

(8) Electrical installation including, but not limited to:

(i) Elementary one-line diagram of the power system;

(ii) Cable lists;

(iii) Bills of materials;

(iv) Type and size of generators and prime movers;

(v) Type and size of generator cables, bus-tie cables, feeders, and branch circuit cables;

(vi) Power, lighting, and interior communication panelboards with number of circuits and rating of energy consuming devices;

(vii) Type and capacity of storage batteries;

(viii) Rating of circuit breakers and switches, interrupting capacity of circuit breakers, and rating and setting of overcurrent devices;

(ix) Electrical plant load analysis; and

(x) For a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers, an overcurrent protective device coordination analysis if the information required by paragraph (a)(8)(i) through (a)(8)(ix) of this section is not considered adequate by the cognizant OCMI to review the electrical system of the vessel;

(9) Lifesaving equipment locations and installation;

(10) Ventilation diagrams;

(11) Engine exhaust diagram;

(12) Fire main system plans and calculations;

(13) Fixed gas fire extinguishing system plans and calculations;

(14) Fire detecting system and smoke detecting system plans;

(15) Sprinkler system plans and calculations;

(16) Portable fire extinguisher types, sizes and locations;

(17) Fire load calculations of accommodation and service spaces, if required under § 116.427;

(18) Fuel tanks;

(19) Piping systems including: firemain, bilge, ballast, hydraulic, sanitary, compressed air, combustible and flammable liquids, vents, soundings, and overflows;

(20) Hull penetrations and shell connections;

(21) Lines and offsets, curves of form, cross curves of stability, and tank capacities including size and location on vessel;

(22) Masts, including integration into the ship's structure, on sailing vessels;

(23) Rigging plan showing sail areas and centers of effort as well as the arrangement, dimensions, and connections of the standing rigging for sailing vessels;

(24) Steering and steering control, including rudder details;

(25) Marine sanitation device model number, approval number, connecting wiring and piping; and

(26) Propulsion and propulsion control, including shaft details.

(b) When authorized by the cognizant OCMI, an owner may submit any plans, manuals, or calculations, required to be submitted to the OCMI under this part, to the Commanding Officer, U.S. Coast Guard Marine Safety Center (Marine Safety Center), 400 Seventh Street SW., Washington, DC 20590–0001. Three copies of all documents are required to be submitted for Marine Safety Center plan approval.

(c) For a vessel, the construction of which was begun prior to approval of the plans and information required by paragraphs (a) and (b) of this section, the cognizant OCMI may require any additional plans and information, manufacturers' certifications of construction, testing including reasonable destructive testing, and inspections, which the OCMI determines are necessary to verify that the vessel complies with the requirements of this subchapter.

§ 116.210 Plans for sister vessels.

(a) Plans are not required for a vessel which is a sister vessel, provided:

(1) Approved plans for the original vessel are on file at the Marine Safety Center or in the files of the cognizant OCMI;

(2) The owner of the plans authorizes their use for the new construction of the sister vessel;

(3) The regulations used for the original plan approval have not changed since the original approval; and

(4) There are no major modifications to any of the systems to be used.

(b) If approved plans for original vessel are not on file at the MSC or with the cognizant OCMI, the vessel owner shall submit plans as described in § 116.202.

Subpart C—Hull Structure

§ 116.300 Structural design.

Except as otherwise allowed by this subpart, a vessel must comply with the structural design requirements of one of the standards listed in this section for the hull material of the vessel.

(a) Steel hull vessels:

(1) Rules and Regulations for the Classification of Yachts and Small Craft, Lloyd's; or

(2) Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length, ABS;

(b) Aluminum hull vessels:

(1) Rules and Regulations for the Classification of Yachts and Small Craft, Lloyd's;

(2) For a vessel of more than 100 feet in length—Rules for Building and Classing Aluminum Vessels, ABS; or

(3) For a vessel of not more than 100 feet in length—Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length, ABS, with the appropriate conversions from the ABS Rules for Building and Classing Aluminum Vessels;

(c) Ferrocement hull vessels—Australian Transport Advisory Council Shipping Laws Code Section 5, Subsection J.

(d) Steel hull vessels operating in protected waters—Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, ABS.

§ 116.330 Sailing vessels.

The design, materials, and construction of masts, posts, yards, booms, bowsprits, and standing rigging on a sailing vessel must be suitable for the intended service. The hull structure must be adequately reinforced to ensure sufficient strength and resistance to plate buckling. The cognizant OCMI may require the owner to submit detailed calculations on the strength of the mast, post, yards, booms, bowsprits, and standing rigging.

§ 116.340 Alternate design considerations.

When the structure of vessel is of novel design, unusual form, or special materials, which cannot be reviewed or approved under § 116.300, the structure may be approved by the Commanding Officer, Marine Safety Center, when it can be shown by systematic analysis based on engineering principles that the structure provides adequate safety and strength. The owner shall submit detailed plans, material component specifications, and design criteria, including the expected operating environment, resulting loads on the vessel, and design limitations for such vessel, to the cognizant OCMI for initial evaluation and forwarding to the Marine Safety Center.

Subpart D—Fire Protection

§ 116.400 Application.

(a) This subpart applies to:

(1) Vessels carrying more than 150 passengers; or

(2) Vessels with overnight accommodations for not more than 49 passengers.

(b) A vessel with overnight accommodations for more than 49 passengers must comply with § 72.05 of this chapter.

§ 116.405 General arrangement and outfitting.

(a) *Fire hazards to be minimized.* The general construction of the vessel must be such as to minimize fire hazards insofar as it is reasonable and practicable.

(b) *Combustible materials to be limited.* Limited amounts of combustible materials such as wiring insulation, pipe hanger linings, nonmetallic (plastic) pipe, and cable ties are permitted in concealed spaces except as otherwise prohibited by this subpart.

(c) *Combustibles insulated from heated surfaces.* Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear of and suitably insulated from combustible material. Dry exhaust systems for internal combustion engines on wooden or fiber reinforced plastic vessels must be installed in accordance with ABYC Standard P–1.

(d) *Separation of machinery and fuel tank spaces from accommodation spaces.* Machinery and fuel tank spaces must be separated from accommodation spaces by boundaries which prevent the passage of vapors.

(e) *Paint and flammable liquid lockers.* Paint and flammable liquid lockers must be constructed of steel or equivalent material, or wholly lined with steel or equivalent material.

(f) *Nonmetallic piping in concealed spaces.* The use of short runs of nonmetallic (plastic) pipe within a concealed space in a control space, accommodation space, or service space is permitted in nonvital service only, provided it is not used to carry flammable liquids (including liquors of 80 proof or higher) and:

(1) Has a flame spread rating of not more than 20 and a smoke developed rating of not more than 50 when filled with water and tested in accordance with ASTM E–84 or UL 273 by an independent laboratory; or

(2) Has a flame spread rating of not more than 20 and a smoke developed rating of not more than 130 when empty and tested in accordance with ASTM E–84 or UL 723 by an independent laboratory.

(g) *Vapor barriers.* Vapor barriers must be provided where insulation of any type is used in spaces where flammable and combustible liquids or vapors are present, such as machinery spaces and paint lockers.

(h) *Interior finishes.* Combustible interior finishes allowed by § 116.422(d) must not extend into hidden spaces, such as behind linings, above ceilings, or between bulkheads.

(i) *Waste receptacles.* Waste receptacles must be constructed of noncombustible materials with no openings in the sides or bottom.

(j) *Mattresses.* All mattresses must comply with the U.S. Department of Commerce Standard for Mattress Flammability (FF 4–72.16), 16 CFR part 1632, subpart A. Mattresses must not contain polyurethane foam.

(k) *Furniture and furnishings.* The use of polyurethane foam in furniture and furnishings is prohibited.

§ 116.415 Fire control boundaries.

(a) *Type and construction of fire control bulkheads and decks.* (1) Major hull structure—The hull, structural bulkheads, columns and stanchions, superstructures, and deckhouses must be composed of steel or equivalent material.

(2) Bulkheads and decks—Bulkheads and decks must be classed as A–60, A–30, A–15, A–0, B–15, B–0, or C, based on the following:

(i) A-Class bulkheads or decks must be composed of steel or equivalent material, suitably stiffened and made intact with the main structure of the vessel, such as the shell, structural bulkheads, and decks. They must be so constructed that, if subjected to the standard fire test, they are capable of preventing the passage of smoke and flame for 1 hour. In addition, they must be so insulated with approved structural insulation, bulkhead panels, or deck covering so that, if subjected to the standard fire test for the applicable time period listed below, the average temperature on the unexposed side does not rise more than 250 °F (139 °C) above the original temperature, nor does the temperature at any one point, including any joint, rise more than 325 °F (181 °C) above the original temperature:

A–60 Class	60 minutes
A–30 Class	30 minutes
A–15 Class	15 minutes
A–0 Class	0 minutes

(ii) Penetrations in A-Class fire control boundaries for electrical cables, pipes, trunks, ducts, etc. must be constructed to prevent the passage of flame and smoke for one hour. In addition, the penetration must be designed or insulated so that it will withstand the same temperature rise limits as the boundary penetrated.

(iii) B-Class bulkheads must be constructed of noncombustible materials and made intact from deck to deck and to shell or other boundaries, except that a B-Class bulkhead need not extend above an approved continuous B-Class ceiling. They must be so constructed that, if subjected to the standard fire test, they are capable of preventing the passage of flame for 30 minutes. In addition, their insulation value must be such that, if subjected to the standard fire test for the applicable time period listed below, the average temperature of the unexposed side does not rise more than 250 °F (139 °C) above the original temperature, nor does the temperature at any one point, including any joint, rise more than 405 °F (225 °C) above the original temperature:

B–15 Class	15 minutes
B–0 Class	0 minutes

(iv) Penetrations in B-Class fire control boundaries for electrical cables, pipes, trunks, ducts, etc. must be constructed to prevent the passage of flame for 30 minutes. In addition, the penetration must be designed or insulated so that it will withstand the same temperature rise limits as the boundary penetrated.

(v) Where B-Class bulkhead panels are used, all four edges of a panel must be retained by a continuous frame of steel or equivalent material on both sides of the panel offering an overlap of not less than 3/4-inch.

(vi) C-Class bulkheads and decks must be composed of noncombustible materials.

(vii) Any sheathing, furring, or holding pieces incidental to the securing of structural insulation must be approved noncombustible material.

(b) *Bulkhead requirements.* Bulkheads between various spaces must meet the requirements of Table 116.415(b).

TABLE 116.415(B)

Spaces		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Control	(1)	B–0	A–0	A–0	A–30	A–60	A–0	A–60	A–60	A–0	A–0
Passageway	(2)		C	A–0	B–15	A–0	A–0	A–0	A–15	A–0	A–0
Stairway	(3)			A–0	A–15	A–15	A–0	A–30	A–15	A–0	A–0
Accommodation	(4)				B–15	A–30	A–30	A–60	A–30	A–15	A–0
High Risk Service Space	(5)					A–0	A–0	A–0	A–15	A–15	A–0
Low Risk Service Space	(6)						C	A–0	A–0	A–0	A–0
Machinery	(7)							A–0	A–0	A–15	A–0
Cargo or Vehicle	(8)								A–0	A–0	A–0
Open Deck or Embarkation Station	(9)									A–0	A–0
Voids, Fuel Tanks, or Water Tanks	(10)										A–0

(c) *Deck requirements.* Decks between various spaces must meet the requirements of Table 116.415(c), except that where linings or bulkhead panels are framed away from the shell or structural bulkheads, the deck within the void space so formed need only meet A–0 Class requirements.

TABLE 116.415(C)

Below: above		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Control Space	(1)	A–0	A–15	A–0	A–30	A–0	A–0	A–0	A–0	A–0	A–0
Passageway	(2)	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0
Stairway	(3)	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0
Accommodation Space	(4)	A–60	A–30	A–30	A–60	A–30	A–15	A–30	A–30	A–0	*A–0
High Risk Service Space	(5)	A–60	A–30	A–30	A–60	A–30	A–30	A–30	A–30	A–0	*A–0
Low Risk Service Space	(6)	A–15	A–0	A–15	A–0	A–0	A–0	A–0	A–0	A–0	A–0
Machinery Space	(7)	A–60	A–60	A–60	A–60	A–30	A–30	A–0	A–30	A–0	*A–0
Cargo or Vehicle Space	(8)	A–60	A–30	A–30	A–30	A–0	A–0	A–0	A–0	A–0	*A–0
Open Deck or Embarkation Station	(9)	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0
Voids, Fuel Tanks, or Water Tanks	(10)	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0	A–0

*—Decks forming boundaries for an embarkation station must be of at least A–60 class construction.

(d) *Main vertical zones.* (1) The hull, superstructure, and deck houses of a vessel, except for a vehicle space on a vehicle ferry, must be subdivided by bulkheads into main vertical zones which:

(i) Are not more than 131 feet in length on any one deck;

(ii) Must be of at least A–30 Class construction or meet the requirements of paragraph (b) of this section, whichever is greater; and

(iii) May have small horizontal steps, if the steps:

(A) Do not exceed 10 feet; and

(B) Are of A–60 Class construction.

(2) Vehicle decks on a vehicle ferry must be subdivided. Where main vertical zones are impractical due to the vehicle carrying configuration, main horizontal zones may be provided. The decks bounding such a zone must be of at least A–30 construction or meet the requirements of paragraph (c) of this section, whichever is greater.

(e) *Draft stops.* In concealed spaces above ceilings and between linings and the shell of a vessel, draft stops must be fitted not more than 45 feet apart. Draft stops must be of at least B-Class construction and be fitted in a vertical position.

§ 116.422 Ceilings, finings, trim, interior finish and decorations.

(a) Ceilings, linings, and any furring incidental to their installation in control spaces, passageways, stairways, accommodation spaces and service spaces must be of noncombustible material, except:

(1) Combustible acoustical materials listed by Underwriters Laboratories for use in fire resistant construction and having a flame spread rating of not more than 20 and a smoke developed rating of not more than 10 when tested in accordance with ASTM E–84 or UL 723, may be used as a ceiling in accommodation spaces, service spaces and control spaces; and

(2) Gypsum wall board listed by Underwriters Laboratories for use in fire resistant construction and having a flame spread rating of not more than 20 and a smoke developed rating of not more than 10, when tested in accordance with ASTM E–84 or UL 723, may be used as a lining in accommodation spaces, service spaces and control spaces.

(b) Ceiling or lining panels must be retained by continuous flanges of steel or equivalent material on the exposed side of the panel.

(c) Bulkheads, linings and ceilings may be covered by a combustible interior finish provided that such a finish is:

(1) Approved under § 164.012 of this chapter; or

(2) Listed by Underwriters Laboratories, does not exceed .075 inches in thickness, and has a flame spread rating of not more than 20 and a smoke developed rating of not more than 10 when tested in accordance with ASTM E–84 or UL 723 by an independent laboratory.

(d) Combustible interior finishes, trim and decorations which do not meet the requirements of paragraph (c) of this section are permitted in accommodation spaces, provided:

(1) The overall thickness of the interior finish does not exceed .075 inches; and

(2) The total volume of the combustible interior finish, trim, mouldings and decorations in any space does not exceed a volume equivalent to a thickness of 1/10-inch on the combined area of the bulkheads of the space.

§ 116.423 Furniture and furnishings.

(a) *Upholstered furniture.* (1) Furniture such as chairs, sofas, tables, and similar items must be constructed with frames of steel or other noncombustible material.

(2) Upholstered furniture must be shown to resist ignition by cigarettes as determined by tests conducted in accordance with NFPA 261, Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smouldering Cigarettes. The testing must be conducted by an independent laboratory and the maximum allowable char length is 1.5 inches.

(b) *Case furniture.* Case furniture such as bookshelves, desks, cabinets, counters, beds, or other freestanding furniture must be constructed entirely of noncombustible materials, except that a combustible veneer not exceeding 1/8-inch in thickness and having a flame spread rating and smoke developed rating of not more than 100 when tested in accordance with ASTM E–84 or UL 723 by an independent laboratory may be used on the top surface of such articles.

(c) *Drapes.* Draperies, curtains and other similar furnishings and decorations must be flame resistant. These materials must be tested in accordance with NFPA 701, and must comply with both the small and large scale tests.

§ 116.425 Deck coverings.

(a) Except as provided in this section, deck coverings used for leveling or finishing purposes in control spaces, stairway enclosures, passageways, accommodation spaces and service spaces must be noncombustible.

(1) Materials approved under § 164.006 of this chapter may be used in thicknesses not to exceed the approved thickness.

(2) Combustible materials not approved under § 164.006 of this chapter may be used in a thickness not to exceed ⅜ inch.

(b) Rugs and carpet may be used in addition to deck coverings. Rugs and carpets must be able to withstand a critical radiant flux of not less than .45 watts/square centimeter when tested to ASTM E–648 by an independent laboratory.

(c) Rugs and carpets must not extend up bulkheads or vertical surfaces more than four inches above a deck.

(d) Rugs and carpets are not permitted in machinery spaces, high risk service spaces, or in areas where the spillage or leakage of flammable or combustible liquids is possible.

§ 116.427 Fire load of accommodation spaces.

(a) When the cognizant OCMI determines that the fire load present in an accommodation space requires fire load calculations, they must be submitted for review, via the OCMI, to the Commanding Officer, Marine Safety Center.

(b) When required under paragraph (a) of this section, fire load calculations must include all combustible construction and outfitting materials in addition to all loose or freestanding combustibles intended for use or stowage in the space. This includes but is not limited to: Furniture, furnishings, carpets, rugs, combustible deck coverings, draperies, combustible interior finish, electrical cable insulation, plastic piping, light diffusers, mattresses, bedding, lifesaving equipment, and similar materials. The maximum fire load of an accommodation space as determined by fire load calculations must not exceed 7.5 pounds of combustible per square foot of deck area.

§ 116.430 Insulation other than for structural fire protection.

(a) Combustible insulation may be used for pipe and machinery covering or lagging within a machinery space, or used in an individual refrigerator box if the refrigerator box was purchased with the insulation already installed.

(b) Except as allowed by paragraph (a) of this section, any insulation installed for purposes other than structural fire protection and all material incidental to its installation must be noncombustible or approved under part 164, subpart 164.009 of this chapter. Surfacing material applied to such insulation must be noncombustible or may meet the requirements of § 116.422(c).

§ 116.433 Windows and air ports in fire control boundaries.

(a) Windows or air ports must be of tempered glass of at least ¼ inch in thickness. The use of other glazing material such as polycarbonate sheets may be approved by the Commandant for specific installations.

(b) Windows or air ports in bulkheads adjacent to passageways must not extend below a point 36 inches above the deck unless storm rails, that are structurally independent of the glass, are fitted in the passageway.

(c) Windows or air ports in A–Class bulkheads must be fitted with frames of steel or equivalent material. Glazing beads or angles of steel or equivalent material must be installed to hold glass in place in windows or air ports in a fire control boundary in event of a fire if:

(1) Where a steel frame is used, it is not arranged to retain the glass in place; or

(2) A frame of aluminum or other material with low melting point is used.

(d) A window or air port which is adjacent to an embarkation station, escape route, or survival craft stowage must be:

(1) Of A–Class construction; or

(2) Fitted with shutters, operable from outside the space, of steel or equivalent material.

(e) A window installed in an internal fire control boundary must comply with the requirements of § 72.05–30 of this chapter, except that fire window frames and glazing material listed by Underwriters Laboratories may be used in B–Class bulkheads.

(f) Windows in doors in fire control boundaries must comply with the requirements of paragraphs (a) through (e) of this section.

§ 116.435 Doors.

(a) A door, other than a watertight door, must meet the requirements of this section.

(b) A door in a fire control boundary must meet the following requirements:

(1) A door in an accommodation space, stairway, stairtower, or passageway must be oriented vertically.

(2) A door must be capable of operation from either side by one person;

(3) A door in an accommodation space, stairway, stairtower, passageway, or control space must open in the direction of escape, where practicable;

(4) Combustible veneers may be used on doors subject to the same restrictions as the fire control boundary in which the doors are fitted;

(5) Door frames must be of rigid construction and provide at least a ½ inch overlap at the sides and top, except:

(i) Double doors capable of independent operation and latching may have a clearance between the doors of not more than ⅛ inch. However, if one door must always be closed first, an astragal strip of at least ½ inch overlap must be provided for the second door; and

(ii) A double swing door, may have a clearance of not more than ⅛ inch at the top and sides;

(6) The maximum width of an individual door must not exceed 48 inches; and

(7) Hose ports, if fitted, must be in the lower corner of the door opposite the hinge so a hose may pass through the doorway when the door is open and still allow the door to close over the hose. The hose port should be approximately 6 inches square. A self-closing hinged or pivoted steel or equivalent material cover must be fitted in the opening.

(c) Doors in A-Class fire control boundaries must meet the following additional requirements:

(1) A door in a bulkhead required to be A–60, A–30, or A–15 Class must be of hollow steel or equivalent material construction, solidly filled with approved structural insulation, and capable of meeting the requirements of an A–15 Class bulkhead;

(2) A door in a bulkhead required to be A–0 Class must be of solid or hollow steel or equivalent material construction, and capable of meeting the requirements of an A–0 Class bulkhead;

(3) A door must have a latch with a minimum throw of ¾-inch;

(4) A door must not have vent grilles or louvers;

(5) A door must not be undercut more than ½-inch above the door sill or deck covering. Rugs and carpets must not pass through doorways, but linoleum and similar deck coverings may;

(6) A door in a stairtower, stairway, and main vertical zone bulkhead must meet the following additional requirements:

(i) A door must be of the self-closing type capable of closing against a 3.5° list of the vessel; and

(ii) Holdback hooks are not allowed. If installed, a hold back mechanism for a door must allow the door to be released:

(A) Locally;

(B) Upon a signal from a control space; and

(C) Upon disruption of the power system.

(7) Horizontal doors are allowed only for access to spaces that are accessible only to crew members and are used only by crew members, subject to the following requirements:

(i) The door must be self-closing with a closure time of not less than 5 seconds and not more than 10 seconds, and be capable of closing against a 3.5° list of the vessel;

(ii) Holdback hooks are not allowed. If installed, a holdback mechanism for a door must allow the door to be released:

(A) Locally;

(B) Upon a signal from a control space; and

(C) Upon disruption of the power system.

(iii) The forces required to fully open the door must not exceed 5 pounds to release the latch, 10 pounds to set the door in motion, and 5 pounds to open the door to the width of the stairway; and

(iv) The door latch must be capable of keeping the door closed when a pressure of 0.01 psi is applied to the underside of the door.

(8) Double swing doors must not be used in any bulkhead except between a food preparation space, such as a galley or pantry, and a messroom or dining room; and

(9) A door opening onto weather decks must meet the requirements of paragraphs (c)(1) or (c)(2) of this section or may be composed of hardwood of not less than 1.75 inches in thickness.

(d) Doors in B-Class fire control boundaries must meet the following requirements in addition to those in paragraph (b) of this section:

(1) A door must be of solid or hollow steel or equivalent material construction, or must be of noncombustible material and be specifically approved by the Commandant;

(2) A door must have a latch with a minimum throw of ⅜-inch; and

(3) A door must not be undercut more than 1 inch above the door sill or deck covering. Rugs and carpets must not pass through doorways but linoleum and similar coverings may.

(e) A door in a C-Class bulkhead must be of noncombustible material.

(f) A door used for decorative purposes, and which is not required to comply with paragraphs (b) through (e) of this section, must be constructed of noncombustible material or hardwood, must not interfere with the normal operation of the required doors, and must open in the same direction as the required doors. Decorative doors must not be used in stairways or stairtowers.

§ 116.438 Stairtowers, stairways, ladders, and elevators.

(a) Stairways, stairtowers, ladders, elevators, and landings must be composed of steel and be of sufficient strength to sustain a load of 100 pounds per square foot with a safety factor of 4 in the design.

(b) A stairway or stairtower must be fitted with handrails on both sides at a vertical height above the tread at its nosing of between 33 and 36 inches. A stairway or stairtower of more than 66 inches in width must also be fitted with a center handrail.

(c) A handrail fitted in a stairtower, stairway, landing, ladder, or elevator must be constructed of noncombustible material.

(d) A stairway or stairtower must be clear of all obstructions other than handrails.

(e) Curved, spiral, or winding stairways are not permitted without the specific approval of the Commandant.

(f) Differences in the depth of tread or height of riser of stairs in different flights of stairs in a stairway or stairtower must be minimized. In an individual flight of stairs in a stairway or stairtower, the depth of the tread and the height of riser must not vary.

(g) In a stairway or stairtower, the sum of the riser height and tread depth must be at least 17 inches and not more than 18 inches. A stairway or stairtower having treads less than 10 inches in depth must have a nosing of ½-inch in width.

(h) Landings for stairways and stairtowers must meet the following requirements:

(1) A clear landing having an area at least equal to the square of the tread width must be provided at the top and bottom of each stairway; and

(2) Any interruption or change of direction in a stairway must be accomplished by means of an intermediate landing of a width and length at least equal to the tread width of the stairway.

(i) A stairway or stairtower must not have an angle of inclination from the horizontal of more than 40 degrees. However, stairways accessing spaces visited solely by crew members must not have an angle of inclination from the horizontal of more than 50 degrees.

(j) Where a continuous vertical deck penetration for a stairway or elevator exceeds one deck, the integrity of all decks must be assured by enclosure bulkheads and decks meeting the requirements of §§ 116.415(b) and 116.415(c). Doors meeting the requirements of §§ 116.435(b) and 116.435(c) must be fitted in the enclosure at each deck serviced.

(k) Where a vertical deck penetration for a stairway or elevator involves only one deck, the integrity of the deck must be assured as required by paragraph (j) of this section. Alternatively the integrity of the deck may be maintained at one level only by means of bulkheads of the same fire control boundary rating as the deck penetrated. A door meeting the requirements of §§ 116.435(b) and 116.435(c) must be fitted in the enclosure. In spaces containing a balcony, the integrity of the balcony deck in the way of stairways or elevators need not be assured. However, such stairways must not be considered to be a means of escape.

(l) Each main vertical zone must be served by at least one stairtower, so that a person may escape from any accommodation space or any other space where persons may be normally quartered or employed, to all other decks having any such spaces within the same main vertical zone, without coming out of the stairtower enclosure. Each stairtower must give access to the embarkation deck, an embarkation station, or an area of refuge identified in the emergency escape plan required by § 116.520. Where a stairtower is accessible from two main vertical zones, it may be considered as the required stairtower for both main vertical zones provided all boundaries of the stairtower meet main vertical zone boundary requirements contained in § 116.415. Insofar as is reasonable and practicable, stairtowers shall not give direct access to cabins, service lockers, service spaces, machinery spaces, or other enclosed spaces in which a fire is likely to originate.

(m) The minimum tread width of a stairway or stairtower must be 0.333 inches for each person served, but must not be less than 36 inches. However, in stairways accessing spaces visited solely by crew members, the minimum tread width must be 0.333 inches for each person served, but not less than 28 inches.

(1) The minimum tread width of a stairway or stairtower must be determined for each deck considering only those persons on that deck, except as provided in paragraph (m)(3) of this section. Once a minimum tread width has been established at any deck, it must not be decreased in the direction of escape.

(2) In determining the number of persons served, a space must be considered to contain at least the number of persons as follows:

(i) Passenger overnight accommodation spaces: Designed capacity;

(ii) Accommodation spaces having fixed seating for passengers: Maximum seating capacity;

(iii) Public spaces, including spaces such as casinos, restaurants, club rooms, and cinemas, and public accommmodation spaces as defined in § 114.400, except overnight accommodation spaces: One person for each 10 square feet of deck area. In computing such deck area, the following areas must be excluded:

(A) Obstructions, including stairway and elevator enclosures, elevated stages, bars, and cashier stands, but not including slot machines, tables, or other room furnishings;

(B) Areas for which the number of persons permitted is determined using the fixed seating criterion;

(C) Toilets and washrooms;

(D) Interior passageways less than 34 inches wide and passageways on open deck less than 28 inches wide;

(E) Spaces necessary for handling lifesaving equipment, anchor handling equipment, or line handling gear, or in way of sail booms or running rigging; and

(F) Bow pulpits, swimming platforms, and areas which do not have a solid deck, such as netting on multi hull vessels;

(iv) Crew overnight accommodation spaces: Two-thirds designed capacity; and

(v) Work spaces: Occupancy under normal operating conditions.

(3) If a stairway forms part of a normal embarkation or debarkation route, the number of persons using the stairway for that purpose must be used in determining the minimum tread width.

(4) If more than one stairtower serves a main vertical zone, the number of persons in that main vertical zone may be distributed among the stairtowers.

§ 116.439 Balconies.

(a) An accommodation space containing a balcony must meet the requirements of this section.

(b) Each level of a space containing a balcony must have two independent means of escape that meet the requirements of § 116.500.

(c) Each level of a space containing a balcony must be adequately protected by the smoke actuated fire detecting system required by § 118.400 of this subchapter.

(d) For the purpose of main vertical zone bulkhead spacing requirements, the length of the space to which the balcony is open will be considered increased by an amount equal to the gross area of the balcony divided by the average width of the space. If this equivalent main vertical zone length exceeds that specified in § 116.415(d)(1)(i), the space may alternatively meet the requirements for an atrium in § 116.440 as long as the actual length of the space does not exceed the main vertical zone maximum length specified in § 116.415(d)(1)(i).

§ 116.440 Atriums.

(a) The maximum fire load within an atrium and in spaces opening into the atrium must not be more than 1.5 pounds of combustible per square foot of deck area.

(b) The entire main vertical zone containing an atrium must be protected throughout with a smoke detection system of an approved type and must be installed in accordance with § 76.33 of this chapter.

(c) The entire main vertical zone containing an atrium must be protected with an automatic sprinkler system meeting the requirements of § 76.25 of this chapter.

(d) The atrium must be provided with a smoke extraction system capable of exhausting the entire volume of the space within 10 minutes. The smoke extraction system must be capable of being activated by both the smoke detection system and by manual control, and designed with sufficient plenum air openings to prevent excessive negative air pressure in the atrium.

(e) Each level within the atrium must have two independent means of escape that comply with § 116.500. At least one of the means of escape must be a stairtower.

Subpart E—Escape and Embarkation Station Requirements

§ 116.500 Means of escape.

(a) Except as otherwise provided in this section, each space accessible to passengers or used by the crew on a regular basis, must have at least two means of escape, one of which must not be a watertight door.

(b) The two required means of escape must be widely separated and, if possible, at opposite ends or sides of the space to minimize the possibility of one incident blocking both escapes.

(c) At least one means of escape from each space must provide a satisfactory route to an embarkation station required by § 116.510.

(d) Subject to the restrictions of this section, means of escape may include normal exits and emergency exits, passageways, stairways, ladders, deck scuttles, and windows.

(e) The number and dimensions of the means of escape from each space must be sufficient for rapid evacuation in an emergency for the number of persons served as determined using § 116.438(m)(2).

(f) The dimensions of a means of escape must be such as to allow easy movement of persons when wearing lifejackets. There must be no protrusions in means of escape which could cause injury, ensnare clothing, or damage lifejackets.

(g) The minimum clear opening of a door or passageway used as a means of escape must not be less than 32 inches in width. The sum of the width of all doors and passageways used as means of escape from a space must not be less than 0.333 inches multiplied by the

number of passengers for which the space is designed.

(h) A dead end passageway, or the equivalent, of more than 20 feet in length is prohibited.

(i) The maximum allowable travel distance from the most remote point in a space to the nearest means of escape must not be more than be 150 feet.

(j) Each door, hatch, or scuttle, used as a means of escape, must be capable of being opened by one person, from either side, in both light and dark conditions. The method of opening a means of escape must be obvious, rapid, and of adequate strength. Handles and securing devices must be permanently installed and not capable of being easily removed. A door, hatch or scuttle must open towards the expected direction of escape from the space served.

(k) A means of escape which is not readily apparent to a person from both inside and outside the space must be adequately marked.

(l) A ladder leading to a deck scuttle may not be used as a means of escape except:

(1) On a vessel of not more than 65 feet in length, a vertical ladder and a deck scuttle may be used as not more than one of the means of escape from a passenger accommodation space; and

(2) As not more than one of the means of escape from any crew accommodation space or work space.

(m) Each ladder used as a means of escape must be mounted at least 7 inches from the nearest permanent object in back of the ladder. Rungs must be:

(1) At least 16 inches in width;

(2) Not more than 12 inches apart, and uniformly spaced for the length of the ladder with at least 4.5 inches clearance above each rung.

(n) When a deck scuttle serves as a means of escape, it must not be less than 18 inches in diameter and must be fitted with a quick acting release and a holdback device to hold the scuttle in an open position.

(o) Footholds, handholds, ladders, and similar means provided to aid escape, must be suitable for use in emergency conditions, of rigid construction, and permanently fixed in position, unless they can be folded, yet brought into immediate service in an emergency.

(p) On a vessel of not more than 65 feet in length, a window or windshield of sufficient size and proper accessibility may be used as one of the required means of escape from an enclosed space, provided it:

(1) Does not lead directly overboard;

(2) Can be opened or is designed to be kicked or pushed out; and

(3) Is suitably marked.

(q) Only one means of escape is required from a space where:

(1) The maximum dimension (length, breadth, or depth) of a space is less than 12 feet;

(2) There is no stove, heater, or other source of fire in the space;

(3) The means of escape is located as far as possible from a machinery space or fuel tank; and

(4) If an accommodation space, the single means of escape does not include a deck scuttle or a ladder.

(r) Alternative means of escape from spaces may be provided if acceptable to the cognizant OCMI.

§ 116.510 Embarkation stations.

(a) A vessel must have at least two designated embarkation stations on the embarkation deck of each main vertical zone, and at least one on each side of the vessel.

(b) Embarkation stations and approaches thereto must:

(1) Be areas that are easily traversed;

(2) Be provided with handholds; and

(3) Be well illuminated.

(c) Each embarkation station must be arranged to allow the safe boarding of survival craft. They must not be located in areas where rolling of the vessel could cause contact between the propeller(s) and survival craft. Bulwarks, handrails, and lifelines must be fitted with openings that are normally closed but which may be opened while survival craft are being boarded, allowing passengers to pass through rather than climb over.

§ 116.520 Emergency evacuation plan.

The owner or managing operator shall prepare an evacuation plan which must:

(a) Identify possible casualties involving fires or flooding, including a fire in the largest capacity passenger space in each main vertical zone;

(b) Provide procedures for evacuating all affected spaces in the event of possible fire or flooding in the largest capacity passenger space in each main vertical zone, without abandoning the vessel, including:

(1) Identify readily accessible areas of refuge for the maximum number of persons allowed aboard the vessel. The capacity for an area of refuge may not exceed the number of persons specified in § 116.438(m)(2), except that one person may be permitted for each 5 square feet of deck area in public spaces; and

(2) Identify at least two escape routes from the space being evacuated to the embarkation deck, embarkation station, or an area of refuge; and

(c) Include procedures to evacuate passengers from the vessel using an abandon ship plan, considering the number of passengers and the vessel's route. The abandon ship plan must identify at least one escape route from each area of refuge to each embarkation station required by § 116.510.

§ 116.530 Fire control plan.

A fire control plan must be posted on the vessel in a location that is accessible and visible to all passengers. The plan must show escape routes, embarkation stations, the location of fire protection/emergency equipment, compartment titles and hazard classification of accommodation and service spaces, and structural fire protection boundaries.

Subpart F—Ventilation

§ 116.600 Ventilation of enclosed and partially enclosed spaces.

(a) An enclosed or partially enclosed space within a vessel must be adequately ventilated in a manner suitable for the purpose of the space.

(b) Ventilation openings serving enclosed or partially enclosed spaces, including openings in ventilation ducts and pipes, ventilators, and louvers must:

(1) Be above the main deck;

(2) Not penetrate the sideshell or the outboard side of the bulwarks of the vessel;

(3) If located along the inner periphery of bulwarks, be:

(i) Located as high as possible in the side of the cockpit or well; and

(ii) Be not more than 2 inches in height; and

(4) When determined necessary by the OCMI, be fitted with closure devices suitable for preventing the entry of water in adverse weather conditions.

(c) A power ventilation system must be capable of being shut down from the pilot house.

(d) An enclosed crew accommodation space and any other space occupied by a crew member on a regular basis must be ventilated by a power ventilation system unless natural ventilation in all ordinary weather conditions is satisfactory to the OCMI.

(e) An enclosed passenger accommodation space must be ventilated by a power ventilation system unless smoking is prohibited and natural ventilation in all ordinary weather conditions is satisfactory to the OCMI.

(f) An exhaust duct over a frying vat or a grill must be fitted with an automatic fire damper as defined in § 116.610(f)(5).

(g) Electrical wiring, piping, combustibles and other foreign materials are not allowed within ventilation ducts.

§ 116.610 Ventilation ducts.

(a) For the purposes of this section, a ventilation duct includes any type of piping, chamber, or conduit used for ventilation.

(b) A ventilation duct, and materials incidental to its installation, must be made of noncombustible material.

(c) Suitable means, such as a manual damper, automatic damper, or vent cover, must be provided in an accessible location outside the space served by the ventilation duct for shutting off the passage of air through the ventilation duct in the event of fire.

(d) A ventilation duct must not serve more than one main vertical zone; penetrations of main vertical zones must be minimized.

(e) A ventilation duct penetrating an A-Class or B-Class fire control boundary must meet the following requirements:

(1) A ventilation duct must meet the same requirements relative to the passage of smoke and flame as the fire control boundary penetrated;

(2) A steel duct penetrating an A-Class fire control boundary must be of at least 11 U.S. Standard Guage (USSG), and a steel duct penetrating a B-Class bulkhead or deck must be of at least 16 USSG;

(3) A duct which is not steel must be fitted with a steel sleeve at each A-Class or B-Class fire control boundary penetrated. The sleeves must extend at least 18 inches on each side of the penetration and be of the same thickness required for steel ducts;

(4) A duct penetrating a main vertical zone bulkhead must be fitted with an automatic fire damper at the main vertical zone bulkhead;

(5) A duct penetrating an A-Class fire control boundary and opening into a space formed by that boundary must be equipped with a fire damper;

(6) A steel duct which penetrates an A-Class fire control boundary other than a main vertical zone bulkhead, and does not open within the space formed by the boundary need not be fitted with a fire damper provided the duct is at least 11 USSG throughout that space; and

(7) A duct penetrating an insulated fire control boundary must be fitted with insulation of the same type and thickness as the boundary penetrated for a distance of at least 12 inches on the insulated side of the boundary. A fire damper blade need not be insulated.

(8) Ducts serving cargo spaces, machinery spaces, or vehicle spaces must be fitted with automatic fire dampers.

(f) Fire dampers, where required by this section, must comply with the following requirements:

(1) A fire damper and casing must be at least 11 USSG and have not more than ⅛-inch gap between the blade and casing;

(2) A fire damper must close against the draft in the duct and be accessible for periodic inspection by means of a hinged or bolted plate in the duct;

(3) Fire damper springs, blades, and hinges must be of stainless steel construction or of steel suitably coated to prevent corrosion; and

(4) Fire dampers must be capable of manual operation from outside the space served, be fitted with an indicator showing whether the damper is open or closed, and be marked with red letters of at least ½-inch in height stating "VENTILATION FIRE DAMPER."

(5) An automatic fire damper must meet the above requirements and must be designed to operate at 165°F for normal locations and approximately 212°F for locations such as galleys.

(g) A ventilation duct serving a stairtower must not serve another space.

(h) A stairway or a stairtower must not serve as an air return for another space.

(i) A duct in a bulkhead or overhead designed for the passage of air from one space to another (i.e., a "jumper duct") is prohibited.

(j) The use of concealed spaces as return ventilation plenums or ducts is prohibited. Ventilation air return must be by ducts.

§ 116.620 Ventilation of machinery and fuel tank spaces.

In addition to the requirements of this subpart, ventilation systems for spaces containing machinery or fuel tanks must comply with the requirements of part 119 of this subchapter.

Subpart G—Crew Spaces

§ 116.700 General requirements.

(a) A crew accommodation space and a work space must be of sufficient size, adequate construction, and with suitable equipment to provide for the safe operation of the vessel and the protection and accommodation of the crew in a manner practicable for the size, facilities, service, route, speed, and modes of operation of the vessel.

(b) The deck above a crew accommodation space must be located above the deepest load waterline.

§ 116.710 Overnight accommodations.

(a) Overnight accommodations must be provided for all crew members if the vessel is operated more than 12 hours in a 24 hour period, unless the crew is put ashore and the vessel is provided with a new crew.

(b) Overnight accommodations for crew members are required on vessels with crews which remain aboard more than 12 hours in any 24 hour period.

§ 116.730 Crew accommodations on vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers.

A crew accommodation space on a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers must comply with §§ 72.20–10 (a), (b), (d), and (e); 72.20–15; 72.20–20(c)(1); 72.20–25(a) and (d); 72.20–30; 72.20–35; 72.20–45; 72.20–50; and 72.20–55 of this chapter.

Subpart H—Passenger Accommodations

§ 116.800 General requirements.

(a) All passenger accommodations must be arranged and equipped to provide for the safety of the passengers in consideration of the route, modes of operation, and speed of the vessel.

(b) The height of ceilings in a passenger accommodation space, including aisles and passageways, must be at least 74 inches, but may be reduced at the sides of a space to allow for camber, wiring, ventilation ducts, and piping.

(c) A passenger accommodation space must be maintained to minimize fire and safety hazards and to preserve sanitary conditions. Aisles must be kept clear of obstructions.

(d) A passenger accommodation space must not contain:

(1) Electrical equipment, high temperature parts, pipelines, rotating assemblies, or any other item which could injure a passenger, unless such an item is adequately shielded or isolated; or

(2) A control for operating the vessel, unless the control is so protected and located that operation of the vessel by a crew member will not be impeded by a passenger during normal or emergency operations.

(e) The deck above a passenger accommodation space must be located above the deepest load waterline.

(f) A variation from a requirement of this subpart may be authorized by the cognizant OCMI for an unusual arrangement or design provided there is no significant reduction of space, accessibility, safety, or sanitation.

§ 116.810 Overnight accommodations.

(a) A berth must be provided for each passenger authorized to be carried in overnight accommodation spaces. Each berth must measure at least 74 inches by 24 inches and have at least 24 inches of clear space above.

(b) Berths must not be located more than three high and must be constructed of wood, fiber reinforced plastic, or metal. A berth located more than 60 inches above the deck must be fitted with a suitable aid for access.

(c) The construction and arrangement of berths and other furniture must allow free and unobstructed access to each berth. Each berth must be immediately adjacent to an aisle leading to a means of escape from the accommodation space. An aisle alongside a berth must be at least 24 inches wide. An aisle joining two or more aisles in an overnight accommodation space must be at least 42 inches wide.

§ 116.820 Seating.

(a) A seat must be provided for each passenger permitted in a space for which the fixed seating criterion in § 115.113(b)(3) of this subchapter has been used to determine the number of passengers permitted.

(b) A seat must be constructed to minimize the possibility of injury and avoid trapping occupants.

(c) Installation of seats must provide for ready escape.

(d) Seats, including fixed, temporary, or portable seats, must be arranged as follows:

(1) An aisle of not more than 15 feet in overall length must be not less than 24 inches in width.

(2) An aisle of more than 15 feet in overall length must be not less than 30 inches in width.

(3) Where seats are in rows, the distance from seat front to seat front must be not less than 30 inches and the seats must be secured to a deck or bulkhead.

(4) Seats used to determined the number of passengers permitted, in accordance with § 115.113(b)(3) of this subchapter, must be secured to the deck, bulkhead, or bulwark by permanent or temporary means.

Subpart I—Rails and Guards

§ 116.900 Deck rails.

(a) Except as otherwise provided in this section, rails or equivalent protection must be installed near the periphery of all decks of a vessel accessible to passengers or crew. Equivalent protection may include lifelines, wire rope, chains, and bulwarks, which provide strength and support equivalent to fixed rails. Deck rails must include a top rail with the minimum height required by this section, and lower courses or equivalent protection as required by this section.

(b) Deck rails must be designed and constructed to withstand a point load of 200 pounds (91 kilograms) applied at any point in any direction, and a uniform load of 50 pounds per foot (74 kilograms per meter) applied to the top rail in any direction. The point and uniform loads do not need to be applied simultaneously.

(c) Where space limitations make deck rails impractical for areas designed for crew use only, such as at narrow catwalks in way of deckhouse sides, hand grabs may be substituted.

(d) The height of top rails required by paragraph (a) of this section must be as follows:

(1) Rails on passenger decks of a ferry or a vessel engaged in excursion trips, including but not limited to sightseeing trips, dinner and party cruises, and overnight cruises, must be at least 39.5 inches high.

(2) Rails on a vessel subject to the 1966 International Convention on Loadlines must be at least 39.5 inches high.

(3) All other rails must be at least 36 inches high.

(e) A sailing vessel, an open boat, or any other vessel not specifically covered elsewhere in this section, must have rails of a minimum height or equivalent protection as considered necessary by the cognizant OCMI, based on the vessel's operation, route, and seating arrangement.

(f) Rail courses or an equivalent must be installed between a top rail required by paragraph (a) of this section and the deck so that no open space exists which is more than 12 inches high, except:

(1) On passenger decks of a ferry or of a vessel on an excursion trip the following must be installed:

(i) Bulwarks;

(ii) Chain link fencing or wire mesh which has openings of not more than 4 inches in diameter; or

(iii) Bars, slats, rail courses, or an equivalent spaced at intervals of not more than 4 inches.

(2) On a vessel subject to the 1966 International Convention on Loadlines, rail courses, or an equivalent, must be installed so that there is not an open space higher than 9 inches from the deck to the first rail course or equivalent.

(g) Rails must be permanently installed except that the following rails may be removable:

(1) Rails in way of embarkation stations and boarding locations; and

(2) Rails on a vessel when the service of the vessel is routinely changed, as determined by the cognizant OCMI, and the required top rail height varies depending on the service of the vessel at a particular time.

§ 116.920 Storm rails.

Suitable storm rails or hand grabs must be installed where necessary in passageways, at deckhouse sides, and at ladders and hatches.

§ 116.940 Guards in vehicle spaces.

On a vessel authorized to carry one or more vehicles, suitable chains, cables, or other barriers must be installed at the end of each vehicle runway. In addition, temporary rails or equivalent protection must be installed in way of each vehicle ramp, in compliance with § 116.900, when the vessel is underway.

§ 116.960 Guards for exposed hazards.

An exposed hazard, such as gears or rotating machinery, must be protected by a cover, guard, or rail.

§ 116.970 Protection against hot piping.

Piping, including valves, pipe fittings and flanges, conveying vapor, gas, or liquid, the temperature of which exceeds 150°F, must be insulated where necessary to prevent injuries.

Subpart J—Window Construction and Visibility

§ 116.1010 Safety glazing materials.

Glass and other glazing material used in windows must be of material which will not break into dangerous fragments if fractured.

§ 116.1020 Strength.

Each window, port hole, and its means of attachment to the hull or deck house, must be capable of withstanding the maximum load from wave and wind conditions expected due to its location on the vessel and the authorized route of the vessel.

§ 116.1030 Operating station visibility.

(a) Windows and other openings at the operating station must be of sufficient size and properly located to provide an adequate view for safe navigation in all operating conditions.

(b) Glass or other glazing material used in windows at the operating station must have a light transmission of not less than 70 percent according to Test 2 of ANSI Z 26.1, and must comply with Test 15 of ANSI Z 26.1 for Class I Optical Deviation.

Subpart K—Drainage and Watertight Integrity of Weather Decks

§ 116.1110 Drainage of flush deck vessels.

(a) Except as provided in paragraph (b) of this section, the weather deck on a flush deck vessel must be watertight and have no obstruction to overboard drainage.

(b) Each flush deck vessel may have solid bulwarks in the forward one-third length of the vessel if:

(1) The bulwarks do not form a well enclosed on all sides; and

(2) The foredeck of the vessel has sufficient sheer to ensure drainage aft.

§ 116.1120 Drainage of cockpit vessels, well deck vessels, and open boats.

Drainage of cockpit vessels, well deck vessels, and open boats must meet the applicable requirements of §§ 178.420, 178.430, 178.440, 178.450 of this chapter.

§ 116.1160 Watertight integrity.

(a) A hatch exposed to the weather must be watertight, except that the following hatches may be weathertight:

(1) A hatch on a watertight trunk that extends at least 12 inches above the weather deck;

(2) A hatch in a cabin top; and

(3) A hatch on a vessel that operates only on protected waters.

(b) A hatch cover must:

(1) Have securing devices; and

(2) Be attached to the hatch frame or coaming by hinges, captive chains, or other devices of substantial strength to prevent its loss.

(c) A hatch cover that provides access to accommodation spaces must be operable from either side.

(d) A weathertight door must be provided for each opening located in a deck house or companionway. Permanent watertight coamings must be provided as follows:

(1) On a vessel on an exposed or partially protected route, a watertight coaming with a height of at least 6 inches must be provided under each weathertight door in a cockpit or a well, or on the main deck of a flush deck vessel.

(2) On a vessel on a protected route, a watertight coaming with a height of at least 3 inches must be provided under each weathertight door in a cockpit or a well.

(3) The height of the watertight coaming for a hinged watertight door, need only be sufficient to accommodate the door.

Subpart L—Ballast Systems

§ 116.1200 Ballast.

(a) Any solid fixed ballast used to comply with the requirements of parts 170 and 171 of this chapter must be:

(1) Stowed in a manner that prevents shifting of the ballast; and

(2) Installed to the satisfaction of the cognizant OCMI.

(b) Solid fixed ballast may not be located forward of the collision bulkhead unless the installation and arrangement of the ballast and the collision bulkhead minimizes the risk of the ballast penetrating the bulkhead in a collision.

(c) Solid fixed ballast may not be removed from a vessel or relocated unless approved by the cognizant OCMI except that ballast may be temporarily moved for a vessel examination or repair if it is replaced to the satisfaction of the OCMI.

(d) Water ballast, either as an active system or permanent, must be approved by the Commanding Officer, Marine Safety Center.

PART 117—LIFESAVING EQUIPMENT AND ARRANGEMENTS

Subpart A—General Provisions

Sec.

117.10 Applicability to vessels on an international voyage.
117.15 Applicability to existing vessels.
117.25 Additional requirements.

Subpart B—Emergency Communications

117.64 Emergency Position Indicating Radiobeacons (EPIRB).
117.68 Distress flares and smoke signals.

Subpart C—Life Buoys and Lifejackets

117.70 Ring life buoys.
117.71 Lifejackets.
117.72 Personal flotation devices carried in addition to lifejackets.
117.75 Lifejacket lights.
117.78 Stowage of lifejackets.

Subpart D—Survival Craft Arrangements and Equipment

117.130 Stowage of survival craft.
117.137 Stowage of life floats and buoyant apparatus.
117.150 Survival craft embarkation arrangements.
117.175 Survival craft equipment.

Subpart E—Number and Type of Survival Craft

117.200 Survival craft—general.
117.202 Survival craft—vessels operating on oceans routes.
117.204 Survival craft—vessels operating on coastwise routes.
117.206 Survival craft—vessels operating on Great Lakes routes.
117.207 Survival craft—vessels operating on lakes, bays, and sounds routes.
117.208 Survival craft—vessels operating on rivers routes.
117.210 Rescue boats.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 117.10 Applicability to vessels on an international voyage.

A vessel on an international voyage must meet the requirements in subchapter H of this chapter for passenger vessels.

§ 117.15 Applicability to existing vessels.

An existing vessel must comply with the requirements of this part except as otherwise specified by this section.

(a) Before [*date 5 years after effective date of the final rule*] or 10 years after the vessel's keel was laid or the vessel was at a similar stage of construction, whichever is later, an existing vessel may comply with the requirements in effect for the vessel prior to [*effective date of the final rule*] for the number and type of survival craft, stowage arrangements, and launching appliances for survival craft.

(b) On or before [*date 5 years after effective date of the final rule*] or 10 years after the vessel's keel was laid or the vessel was at a similar stage of construction, whichever is later, an existing vessel must:

(1) Be equipped with the number of survival craft required for its route under §§ 117.202, 117.204, 117.206, 117.207, or 117.208, as applicable; and

(2) Comply with the stowage and launching appliance requirements for survival craft in §§ 117.130 through 117.150.

(c) Each inflatable liferaft, inflatable buoyant apparatus, life float, and buoyant apparatus on the vessel on [*effective date of the final rule*], may be used to meet the requirements of this part as long as the survival craft is in good and serviceable condition.

(d) When any lifesaving equipment on a vessel is replaced or a vessel undergoes repairs, alterations, or modifications of a major character involving replacement of, or any addition to, the existing lifesaving equipment, each new piece of lifesaving equipment must meet this part.

(e) A combination flare and smoke distress signal approved under § 160.023 of this chapter may be used on an existing vessel until the expiration date of the distress signal but no later than [*3 years after effective date of the final rule*] as one of the distress signals required by § 117.68.

(f) Until February 1, 1999, a Coast Guard approved 121.5/243 MHz Class A Emergency Position Indicating Radiobeacon (EPIRB) may be used to meet the requirement for an EPIRB under § 117.64, if the EPIRB:

(1) Is operable;

(2) Is installed to automatically float-free and activate;

(3) Was manufactured on or after October 1, 1988; and

(4) Was installed on the vessel on or before [*date 45 days after effective date of the final rule*].

(g) Until February 1, 1999, an FCC Type Accepted VHF–FM Class C EPIRB may be used to meet the requirement for

an EPIRB on a vessel operating on a Great Lakes route under § 117.64, if the EPIRB:

(1) Is operable; and

(2) Was installed on the vessel on or before [*date 45 days after effective date of the final rule*].

(h) Until [*date 1 year after effective date of the final rule*], an existing vessel on a coastwise route operating not more than 20 nautical miles from a harbor of safe refuge, need not comply with § 117.64.

(i) An existing vessel need not comply with § 117.78(a)(4).

(j) An existing vessel must comply with either § 117.210 or with the regulations for rescue boats that were in effect for the vessel prior to [*effective date of the final rule*].

§ 117.25 Additional requirements.

(a) Each item of lifesaving equipment carried on board a vessel but not required under this part, must be of an approved type meeting the specifications for lifesaving equipment in subchapter Q of this chapter.

(b) The cognizant OCMI may require a vessel to carry specialized or additional lifesaving equipment if:

(1) The OCMI determines the conditions of the voyage render the requirements of this part inadequate; or

(2) The vessel is operated in Arctic, Antarctic, or other severe conditions not covered under this part.

Subpart B—Emergency Communications

§ 117.64 Emergency Position Indicating Radiobeacons (EPIRB).

Each vessel which operates on the high seas, or which operates beyond three miles from the coastline of the Great Lakes, must have on board a FCC Type Accepted Category 1 406 MHz EPIRB, installed to automatically float free and activate.

§ 117.68 Distress flares and smoke signals.

(a) *Oceans, coastwise, and Great Lakes routes.* A vessel on an oceans, coastwise, or Great Lakes route must carry:

(1) Six hand red flare distress signals approved under part 160, subpart 160.021 of this chapter; and

(2) Six hand orange smoke distress signals approved under part 160, subpart 160.037 of this chapter.

(b) *Lakes, bays, and sounds, and rivers routes.* A vessel on a lakes, bays, and sounds, or rivers route must carry:

(1) Three hand red flare distress signals approved under part 160, subpart 160.021 of this chapter; and

(2) Three hand orange smoke distress signals approved under part 160, subpart 160.037 of this chapter.

(c) *Substitutions.* (1) A rocket parachute flare approved under part 160, subpart 160.036 of this chapter may be substituted for any of the hand red flare distress signals required under paragraph (a) or (b) of this section.

(2) One of the following may be substituted for any of the hand orange smoke distress signals required under paragraph (a) or (b) of this section:

(i) A rocket parachute flare approved under part 160, subpart 160.036 of this chapter.

(ii) A hand red flare distress signal approved under part 160, subpart 160.021 of this chapter.

(iii) A floating orange smoke distress signal approved under part 160, subpart 160.022 of this chapter.

(d) *Exemption for vessels on short runs.* A vessel operating on short runs limited to approximately 30 minutes away from the dock is not required to carry distress flares and smoke signals under this section.

(e) *Stowage.* Each flare carried to meet this section must be stowed in one of the following:

(1) A portable watertight container complying with § 160.021–6 of this chapter, carried at the operating station; or

(2) A pyrotechnic locker secured above the freeboard deck, away from heat, in the vicinity of the operating station. An example of an acceptable pyrotechnic locker is described in ASTM F—[reserved for number of standard under development by ASTM].

Subpart C—Life Buoys and Lifejackets

§ 117.70 Ring life buoys.

(a) A vessel must have one or more ring life buoys as follows:

(1) A vessel of not more than 26 feet in length must carry a minimum of one life buoy of not less than 20 inches in diameter;

(2) A vessel of more than 26 feet in length, but not more than 65 feet, must carry a minimum of one life buoy of not less than 24 inches in diameter; and

(3) A vessel of more than 65 feet in length must carry a minimum of three life buoys of not less than 24 inches in diameter.

(b) Each ring life buoy on a vessel must:

(1) Be approved under part 160, subpart 160.050 of this chapter;

(2) Be readily accessible;

(3) Be stowed in a way that it can be rapidly cast loose;

(4) Not be permanently secured in any way; and

(5) If on a vessel on an oceans or coastwise route, be orange in color.

(c) At least one ring life buoy must be fitted with a lifeline. If more than one ring life buoy is carried, at least one must not have a lifeline attached. Each lifeline on a ring life buoy must:

(1) Be buoyant;

(2) Be of at least 60 feet in length;

(3) Be non-kinking;

(4) Have a diameter of at least 5/16-inch;

(5) Have a breaking strength of at least 1,124 pounds; and

(6) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light.

(d) At least one ring buoy must be fitted with a floating waterlight, unless the vessel is limited to daytime operation, in which case no floating waterlight is required.

(1) Each floating waterlight must be approved under part 161, subpart 161.010 of this chapter.

(2) Each ring life buoy with a floating waterlight must have a lanyard of at least 3 feet in length, but not more than 6 feet, securing the waterlight around the body of the ring life buoy.

(3) Each floating waterlight installed after [*date one year after effective date of the final rule*] on a vessel carrying only one ring life buoy, must be attached to a lanyard with a corrosion-resistant clip. The clip must have a strength of at least 50 pounds and allow the waterlight to be quickly disconnected from the ring life buoy.

§ 117.71 Lifejackets.

(a) An adult lifejacket must be provided for each person permitted on board a vessel.

(b) In addition, a number of child-size lifejackets equal to at least 10% of the number of the persons permitted on board must be provided, or such greater number as necessary to provide a lifejacket for each person being carried that is smaller than the lower size limit of the adult lifejackets provided to meet this section, except that:

(1) Child-size lifejackets are not required if the vessel's Certificate of Inspection is endorsed for the carriage of adults only, or

(2) When all "extended size" life preservers (those with a lower size limit of 47 inches in height or weighing 45 pounds) are carried on board, a minimum of only 5% additional child size devices need be carried.

(c) Each lifejacket must be approved under either part 160, subparts 160.002, 160.005, or 160.055 of this chapter.

§ 117.72 Personal flotation devices carried in addition to lifejackets.

(a) Equipment carried under this section is not acceptable in lieu of any portion of the required number of approved lifejackets and must not be substituted for the approved lifejackets required to be worn during drills and emergencies.

(b) Wearable marine buoyant devices which include "ski vests", "boating vests", and "fishing vests", approved under part 160, subpart 160.064 of this chapter, may be carried as additional equipment.

(c) Buoyant work vests approved under part 160, subpart 160.053 of this chapter may be carried as additional equipment for use of persons working near or over the water.

(d) Commercial hybrid personal flotation devices (PFDs) approved under part 160, subpart 160.077 of this chapter may be carried as additional equipment for use of persons working near or over the water. Each commercial hybrid PFD must be:

(1) Used, stowed, and maintained in accordance with the procedures set out in the manual required for these devices under § 160.077–29 of this chapter and any limitation(s) marked on them; and

(2) Of the same or similar design and have the same method of operation as each other hybrid PFD carried on board.

§ 117.75 Lifejacket lights.

(a) Each lifejacket carried on a vessel on an oceans, coastwise, or Great Lakes route, must have a lifejacket light approved under part 161, subpart 161.012 of this chapter. Each lifejacket light must be securely attached to the front shoulder area of the lifejacket.

(b) Notwithstanding the requirements of paragraph (a) of this section, lifejacket lights are not required for lifejackets on:

(1) Ferries; and

(2) Vessels with Certificates of Inspection endorsed only for routes that do not extend more than 20 miles from a harbor of safe refuge.

§ 117.78 Stowage of lifejackets.

(a) *General.* Unless otherwise stated in this section, lifejackets must be stored in convenient places distributed throughout accommodation spaces.

(1) Each stowage container for lifejackets must not be capable of being locked. If practicable, the container must be designed to allow the lifejackets to float free.

(2) Each lifejacket kept in a stowage container must be readily available.

(3) Each lifejacket stowed overhead must be supported in a manner which allows quick release for distribution.

(4) If lifejackets are stowed more than 7 feet above the deck, a means for quick release must be provided and must be capable of operation by a person standing on the deck.

(5) Each child size lifejacket must be stowed in a location which is appropriately marked and separated from adult lifejackets so the child size lifejackets are not mistaken for adult lifejackets.

(b) *Additional personal flotation devices.* The stowage locations of the personal flotation devices carried in addition to lifejackets under § 117.72, must be separate from the lifejackets, and such as not to be easily confused with that of the lifejackets.

Subpart D—Survival Craft Arrangements and Equipment

§ 117.130 Stowage of survival craft.

(a) Each survival craft must be: (1) Secured to the vessel by a painter with a float-free link permanently attached to the vessel except that a float-free link is not required if the vessel operates only on waters not as deep as the length of the painter;

(2) Stowed so that when the vessel sinks the survival craft floats free and, if inflatable, inflates automatically;

(3) Stowed in a position which is readily accessible to crew members for launching, or else provided with a remotely operated device which releases the survival craft into launching position or into the water;

(4) Stowed in a way that permits manual release from its securing arrangements;

(5) Ready for immediate use so that two crew members can carry out preparations for embarkation and launching in less than 5 minutes;

(6) Provided with means to prevent shifting;

(7) Stowed in a way that neither the survival craft nor its stowage arrangements will interfere with the embarkation and operation of any other survival craft at any other launching station;

(8) Stowed in a way that any protective covers will not interfere with launching and embarkation.

(9) Fully equipped as required under this part; and

(10) Stowed, as far as practicable, in a position sheltered from breaking seas and protected from damage by fire and explosion.

(b) A hydrostatic release unit used in a float-free arrangement must be approved under part 160, subpart 160.062 of this chapter.

(c) A mechanical, manually operated device to assist in launching a survival craft must be provided if:

(1) The survival craft weighs more than 200 pounds; and

(2) The survival craft requires lifting to be launched.

§ 117.137 Stowage of life floats and buoyant apparatus.

(a) In addition to meeting § 117.130, each life float and buoyant apparatus must be stowed as required under this section.

(b) The float-free link required by § 117.130(a)(1) must be:

(1) Certified to meet Part 160, Subpart 160.073 of this chapter;

(2) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag; and

(3) Secured to the painter at one end and to the vessel on the other end.

(c) The means used to attach the float-free link to the vessel must:

(1) Have a breaking strength of at least the breaking strength of the painter;

(2) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light; and

(3) If metal, be corrosion resistant.

(d) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line which:

(1) Encircles the body of the device;

(2) Will not slip off;

(3) Has a breaking strength which is at least the strength of the painter; and

(4) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(e) If the vessel carries more than one life float or buoyant apparatus in a group with each group secured by a single painter:

(1) The combined weight of each group of life floats and buoyant apparatus must not exceed 400 pounds;

(2) Each group of life floats and buoyant apparatus is considered a single survival craft for the purposes of § 117.130(c).

(3) Each life float and buoyant apparatus must be individually attached to the painter by a line meeting § 117.175(e)(3)(ii), (iii), and (iv) and long enough that each life float or buoyant apparatus can float without contacting any other life float or buoyant apparatus in the group; and

(4) The strength of the float-free link under paragraph (b)(2) of this section and the strength of the painter under § 117.175(e)(3)(ii) must be determined by the combined capacity of the group of life floats and buoyant apparatus.

(f) Life floats and buoyant apparatus must not be stowed in tiers more than 4 feet high. When stowed in tiers, the separate units must be kept apart by spacers.

§ 117.150 Survival craft embarkation arrangements.

(a) A launching appliance approved under part 160, subpart 160.032 of this chapter must be provided for each inflatable liferaft and inflatable buoyant apparatus when either:

(1) The embarkation station for the survival craft is on a deck more than 15 feet above the waterline; or

(2) The inflatable liferaft or inflatable buoyant apparatus will be boarded prior to being placed in the water.

(b) An embarkation ladder, approved under part 160, subpart 160.017 of this chapter, must be at each embarkation station if the distance from the embarkation deck to the vessel's lightest operating waterline is more than 10 feet.

§ 117.175 Survival craft equipment.

(a) *General.* Each item of survival craft equipment must be of good quality, and efficient for the purpose it is intended to serve. Unless otherwise stated in this section, each item of equipment carried, whether required under this section or not, must be secured by lashings, stored in lockers, compartments, brackets, or have equivalent mounting or storage arrangements which do not:

(1) Reduce survival craft capacity;

(2) Reduce space available to the occupants;

(3) Interfere with launching, recovery, or rescue operations; or

(4) Adversely affect seaworthiness of the survival craft.

(b) *Inflatable liferafts.* Each inflatable liferaft must have one of the following equipment packs as shown by the markings on its container:

(1) Limited Service;

(2) SOLAS B Pack;

(3) SOLAS A Pack; or

(4) Ocean Service.

(c) *Life floats.* Each life float must be fitted with a lifeline, pendants, two paddles, a painter, and a light.

(d) *Buoyant apparatus.* Each buoyant apparatus must be fitted with a lifeline, pendants, a painter, and a light.

(e) *Equipment specifications for life floats and buoyant apparatus.* The equipment required for lifefloats and buoyant apparatus must meet the following specifications:

(1) *Lifeline and pendants.* The lifeline and pendants must be as furnished by the manufacturer with the approved life float or buoyant apparatus. Replacement lifelines and pendants must meet the requirements in part 160, subpart 160.010 of this chapter.

(2) *Paddle.* Each paddle must be of at least 4 feet in length and buoyant.

(3) *Painter.* The painter must:

(i) Be of at least 100 feet in length, but not less than three times the distance between the deck where the life float or buoyant apparatus it serves is stowed and the lightship waterline of the vessel;

(ii) Have a breaking strength of at least 1500 pounds, except that if the capacity of the life float or buoyant apparatus is 50 persons or more, the breaking strength must be at least 3000 pounds;

(iii) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light; and

(iv) Be stowed in such a way that it runs out freely when the life float or buoyant apparatus floats away from a sinking vessel.

(4) *Light.* The light must be a floating waterlight approved under part 161, subpart 161.010 of this chapter. The floating waterlight must be attached around the body of the life float or buoyant apparatus by a 12-thread manila, or equivalent, lanyard of at least 18 feet in length.

(f) *Other survival craft.* If survival craft other than inflatable liferafts, life floats, inflatable buoyant apparatus, and buoyant apparatus are carried on the vessel, such as lifeboats or rigid liferafts, they must be installed, arranged, and equipped as required under subchapter H (Passenger Vessels) of this chapter for passenger vessels on the same route.

Subpart E—Number and Type of Survival Craft

§ 117.200 Survival craft—general.

(a) Each survival craft required on a vessel by this part must meet one of the following:

(1) For an inflatable liferaft—part 160, subpart 160.051 of this chapter, with the applicable equipment pack, as determined by the cognizant OCMI. Each inflatable liferaft required on a vessel by this part must have a capacity of 6 persons or more. Inflatable liferafts may be substituted for inflatable buoyant apparatus or life floats required under this section.

(2) For a life float—part 160, subpart 160.027 of this chapter. Buoyant apparatus may be used to meet requirements for life floats if the buoyant apparatus was installed on board the vessel on or before [*effective date of the final rule*], and if the buoyant apparatus remains in good and serviceable condition.

(3) For an inflatable buoyant apparatus—part 160, subpart 160.010 of this chapter. Inflatable buoyant apparatus may be substituted for life floats required under this section.

(b) If the vessel carries a small boat or boats, the capacity of these boats may be counted toward the buoyant apparatus or life float capacity required by this subpart. Such boats must meet the requirements for safe loading and flotation in 33 CFR part 183, and must meet the stowage, launching, and equipment requirements in this part for the survival craft they replace.

(c) A summary of survival craft requirements is provided in Table 117.200(c). The citations identify the sections of this part which contain the specific requirements.

TABLE 117.200(C)

Route	Survival craft required
Oceans, more than 50 miles offshore	100% ILR—§ 117.202(a).
Oceans, 20–50 miles offshore	100% IBA—§ 117.202(b)
Coastwise	
(a) W/overnight accommodations for > 49 passengers	100% IBA—§ 117.204(a)
(b) W/overnight accommodations for ≤ 49 passengers.	
(i) Cold water[1]	50% IBA[2]—§ 117.204(b)(1)
(ii) Warm water[3]	100% LF[4]—§ 117.204(b)(2)
(iii) Within one mile of shore.	
(A) Cold water[1]	50% LF[4]—§ 117.204(d)
(B) Warm water[1]	None—§ 117.204(e).
Great Lakes	
(a) Same as Coastwise (a) & (b)	§ 117.206(a).
(b) Within one mile of shore	None—§ 117.206(b).
Lakes, bays & sounds	
(a) W/overnight accommodations for > 49 passengers	100% IBA—§ 117.207(a)

TABLE 117.200(C)—Continued

Route	Survival craft required
(b) W/overnight accommodations for ≤ 49 passengers.[5]	
(i) Cold water[1]	50% IBA[2]—§ 117.207(b)(1).
(ii) Warm water[3]	50% LF[4]—§ 117.204(b)(2).
(iii) Within one mile of shore	None—§ 117.207(c).
Rivers	
(a) Cold water[6].	
(i) 50% LF[4]	§ 117.208(a).
(ii) Within one mile of shore	None—§ 117.208(c).
(b) Warm water	None—§ 117.208(b).

Abbreviations used: ILR=Inflatable liferaft; IBA=Inflatable Buoyant Apparatus; LF=Life Float.
[1] Cold water means the cognizant OCMI has determined the prevailing temperature of the water is ≤ 15° C (59° F).
[2] Certain ferry type operations may substitute 100% LF for IBA—§§ 117.204(c), 117.206(a), and 117.207(c).
[3] Warm water means the cognizant OCMI has determined the prevailing temperature of the water is > 15° C (59° F).
[4] Any buoyant apparatus in use on an existing vessel on [effective date of the final rule] may be used to meet the requirements for LF as long as the buoyant apparatus is in good and serviceable condition—§ 117.15(c).
[5] Shallow water exception—§ 117.207(e).
[6] Shallow water exception—§ 117.208(d).

§ 117.202 Survival craft—vessels operating on oceans routes.

(a) Each vessel certificated to operate on an oceans route more than 50 nautical miles offshore must be provided with inflatable liferafts of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(b) Each vessel certificated to operate on an oceans route not more than 50 nautical miles offshore must be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

§ 117.204 Survival craft—vessels operating on coastwise routes.

(a) Each vessel with overnight accommodations for more than 49 passengers certificated to operate on a coastwise route must be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(b) Each vessel with overnight accommodations for not more than 49 passengers certificated to operate on a coastwise route, must:

(1) Except as allowed by paragraphs (c) and (d) of this section, if operated in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less, be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board; or

(2) Except as allowed by paragraph (e) of this section, if operated in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F), be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(c) Each vessel operating between two points, with a set schedule on a specific route which does not take it more than 20 nautical miles from a harbor of safe refuge, and which maintains a 15 minute radio communications schedule with an operations base, may be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(d) Each vessel certificated to operate on a coastwise route within one mile of land in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less may be provided with life floats of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board.

(e) Each vessel certificated to operate on a coastwise route within one mile of land in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F) is not required to carry survival craft.

§ 117.206 Survival craft—vessels operating on Great Lakes routes.

(a) Except as allowed by paragraph (b) of this section, each vessel certificated to operate on a Great Lakes route must be provided with the survival craft required by §§ 117.204 (a), (b), or (c), as applicable.

(b) Each vessel certificated to operate on a Great Lakes route within one mile of land is not required to carry survival craft.

§ 117.207 Survival craft—vessels operating on lakes, bays, and sounds routes.

(a) Each vessel with overnight accommodations for more than 49 passengers certificated to operate on a lakes, bays, and sounds route must be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(b) Except as allowed by paragraphs (c), (d), and (e) of this section, each vessel with overnight accommodations for not more than 49 passengers certificated to operate on a lakes, bays, and sounds route must:

(1) If operated in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less, be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board; or

(2) If operated in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F), be provided with life floats of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board.

(c) Each vessel operating between two points, with a set schedule on a specific route which does not take it more than 20 nautical miles from a harbor of safe refuge, and which maintain a 15 minute radio communications schedule with an operations base, may be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(d) Each vessel certificated to operate on a lakes, bays and sounds route

within one mile of land is not required to carry survival craft.

(e) For a vessel certificated to operate on a lakes, bays and sounds route in shallow water where the vessel cannot sink deep enough to submerge the topmost passenger deck or where survivors can wade ashore, the cognizant OCMI may waive a requirement for survival craft, if the OCMI determines that it is safe to do so, taking into consideration the vessel's scope of operation, hazards of the route, and availability of assistance.

§ 117.208 Survival craft—vessels operating on rivers routes.

(a) Except as allowed by paragraphs (c) and (d) of this section, each vessel certificated to operate on a rivers route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less must be provided with life floats of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board.

(b) Each vessel certificated to operate on a rivers route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F) is not required to carry survival craft.

(c) Each vessel certificated to operate on a rivers route within one mile of land is not required to carry survival craft.

(d) For a vessel certificated to operate on a rivers route in shallow water where the vessel cannot sink deep enough to submerge the topmost passenger deck or where survivors can wade ashore, the cognizant OCMI may waive a requirement for life floats, if the OCMI determines that it is safe to do so, taking into consideration the vessel's scope of operation, hazards of the route, and availability of assistance.

§ 117.210 Rescue boats.

(a) Each vessel must carry at least one rescue boat unless the cognizant OCMI determines that:

(1) The vessel is sufficiently maneuverable, arranged, and equipped to allow the crew to recover a helpless person from the water;

(2) Recovery of a helpless person can be observed from the operating station; and

(3) The vessel does not regularly engage in operations that restrict its maneuverability.

(b) On a vessel of more than 65 feet in length, a required rescue boat and its installation must meet the requirements in subchapter H (Passenger Vessels) of this chapter for a rescue boat on a passenger vessel having the same route. On a vessel of not more than 65 feet in length, a required rescue boat must be acceptable to the cognizant OCMI.

PART 118—FIRE PROTECTION EQUIPMENT

Subpart A—General Provisions

Sec.

118.115 Applicability to existing vessels.
118.120 Equipment installed but not required.

Subpart B—Reserved

Subpart C—Fire Main System

118.300 Fire pumps.
118.310 Fire main and hydrants.
118.320 Fire hoses and nozzles.

Subpart D—Fixed Fire Extinguishing and Detecting Systems

118.400 Where required.
118.410 Fixed gas fire extinguishing systems.
118.420 Pre-engineered fixed gas fire extinguishing systems.
118.425 Galley hood fire extinguishing systems.

Subpart E—Portable Fire Extinguishers

118.500 Required number, type, and location.
118.520 Installation and location.

Subpart F—Additional Equipment

118.600 Fire axe.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 118.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraphs (b), (c), and (d) of this section, an existing vessel must comply with the fire protection equipment regulations applicable to the vessel on [*date of day before effective date of the final rule*] or, as an alternative, the vessel may comply with the regulations in this part.

(b) An existing vessel with a hull, or a machinery space boundary bulkhead or deck, composed of wood or fiber reinforced plastic, or sheathed on the interior in fiber reinforced plastic, must comply with the requirements of § 118.400 on or before [*date 3 years after effective date of the final rule*].

(c) New installations of fire protection equipment on an existing vessel, which are completed to the satisfaction of the cognizant OCMI on or after [*effective date of of the final rule*], must comply with the regulations of this part. Replacement of existing equipment installed on the vessel prior to [*effective date of of the final rule*] need not comply with the regulations in this part.

§ 118.120 Equipment installed but not required.

Fire extinguishing and detecting equipment installed on a vessel in excess of the requirements of §§ 118.400 and 118.500 must be designed, constructed, installed and maintained in a manner acceptable to the Commandant.

Subpart B—Reserved

Subpart C—Fire Main System

§ 118.300 Fire pumps.

(a) A self priming, power driven fire pump must be installed on each vessel.

(b) On a vessel with overnight accommodations for not more than 49 passengers, the fire pump must be capable of delivering a single hose stream from the highest hydrant, through the hose and nozzle required by § 118.320, at a pitot tube pressure of 50 psi.

(c) On a vessel with overnight accommodations for more than 49 passengers the fire pump must meet the fire pump requirements in § 76.10–5 of this chapter.

(d) A fire pump may be driven by a propulsion engine. A fire pump must be permanently connected to the fire main and may be connected to the bilge system to meet the requirements of § 119.520 of this subchapter.

(e) A fire pump must be capable of both remote operation from the operating station and local, manual operation at the pump.

§ 118.310 Fire main and hydrants.

(a) A vessel must have a sufficient number of fire hydrants to reach any part of the vessel using a single length of fire hose.

(b) Piping, valves, and fittings in a fire main system must comply with part 119, subpart G of this subchapter.

§ 118.320 Fire hoses and nozzles.

(a) A fire hose with a nozzle must be attached to each fire hydrant at all times. For fire stations located on open decks or cargo decks, where no protection is provided, hoses may be temporarily removed during heavy weather or cargo handling operations, respectively. Hoses so removed must be stored in nearby accessible locations.

(b) Each hose must:

(1) Be lined commercial fire hose that conforms to UL 19 or hose that is listed and labeled by an independent laboratory recognized by the Commandant as being equivalent in performance;

(2) Be 50 feet in length and 1.5 inches in diameter; and

(3) Have fittings of brass or other suitable corrosion-resistant material which comply with NFPA 1963.

(c) Each nozzle must be of a type approved under subpart 162.027 of this chapter.

Subpart D—Fixed Fire Extinguishing and Detecting Systems

§ 118.400 Where required.

(a) The following spaces must be equipped with a Halon or carbon dioxide fixed gas fire extinguishing system, in compliance with § 118.410, except as otherwise allowed by paragraph (b) of this section:

(1) A space containing propulsion machinery;

(2) A space containing an internal combustion engine of more than 50 hp;

(3) A space containing an oil fired boiler;

(4) A space containing combustible cargo or ship's stores inaccessible during the voyage (a carbon dioxide system must be installed in such a space, and Halon systems are not allowed);

(5) A paint locker; and

(6) A storeroom containing flammable liquids (including liquors of 80 proof or higher).

(b) Alternative system types and exceptions to the requirements of paragraph (a) of this section are:

(1) A fixed gas fire extinguishing system, which is capable of automatic discharge upon heat detection, may only be installed in a normally unoccupied space with a gross volume of not more than 6000 cubic feet;

(2) A pre-engineered fixed gas fire extinguishing system must be in compliance with § 118.420 and may only be installed in a normally unoccupied machinery space, a paint locker, or a storeroom containing flammable liquids (including liquors of 80 proof or higher), with a gross volume of not more than 2000 cubic feet;

(3) A B–II portable fire extinguisher installed outside the space may be substituted for a fixed gas fire extinguishing system in a storeroom containing flammable liquids (including liquors of 80 proof or higher) or a paint locker, with a volume of not more that 200 cubic feet; and

(4) A space which is so open to the atmosphere that a fixed gas fire extinguishing system would be ineffective, as determined by the cognizant OCMI, is not required to have a fixed gas fire extinguishing system.

(c) The following spaces must be equipped with a fire detecting system of an approved type which is installed in accordance with part 76, subpart 76.27 of this chapter, except when a fixed gas fire extinguishing system which is capable of automatic discharge upon heat detection is installed or when the space is manned:

(1) A space containing propulsion machinery;

(2) A space containing an internal combustion engine of more than 50 hp; and

(3) A space containing an oil fired boiler.

(d) All grills, broilers, and deep fat fryers must be fitted with a grease extraction hood which complies with § 118.425.

(e) Each accommodation space, control space, and service space must be fitted with the following systems:

(1) A smoke actuated fire detecting system of a type approved by the Commandant which is installed in accordance with part 76, subpart 76.27 of this chapter; and

(2) A manual alarm system which meets the requirements in part 76, subpart 76.35 of this chapter.

(f) An enclosed vehicle space must be fitted with an automatic sprinkler system which meets the requirements of part 76, subpart 76.25 of this chapter; and

(1) A smoke actuated fire detecting system of a type approved by the Commandant which is installed in accordance with part 76, subpart 76.27 of this chapter; or

(2) A smoke detecting system of a type approved by the Commandant which is installed in accordance with part 76, subpart 76.33 of this chapter.

(g) A partially enclosed vehicle space must be fitted with a manual sprinkler system which meets the requirements of part 76, subpart 76.23 of this chapter.

§ 118.410 Fixed gas fire extinguishing systems.

(a) *General.*

(1) A fixed gas fire extinguishing system aboard a vessel must be approved by the Commandant, and be custom engineered to meet the requirements of this section unless the system meets the requirements of § 118.420.

(2) System components must be listed and labeled by an independent laboratory. A component from a different system, even if from the same manufacturer, must not be used unless included in the approval of the installed system.

(3) System design and installation must be in accordance with the Marine Design, Installation, Operation, and Maintenance Manual approved for the system by the Commandant.

(4) A fixed gas fire extinguishing system may protect more than one space. The quantity of extinguishing agent must be at least sufficient for the space requiring the greatest quantity as determined by the requirements of paragraphs (f)(4) or (g)(2) of this section.

(b) *Controls.*

(1) Controls and valves for operation of a fixed gas fire extinguishing system must be:

(i) Located outside the space protected by the system; and

(ii) Not located in a space that might be inaccessible in the event of fire in the space protected by the system.

(2) Except as provided in paragraph (c)(2) of this section, release of an extinguishing agent into a space must require two distinct operations.

(3) A system must have local manual controls at the storage cylinders capable of releasing the extinguishing agent. In addition, a normally manned space must have remote controls for releasing the extinguishing agent immediately outside the primary exit from the space.

(4) Remote controls must be located in a breakglass enclosure to preclude accidental discharge.

(5) Valves and controls must be of a type approved by the Commandant and protected from damage or accidental activation. A pull cable used to activate the system controls must be enclosed in conduit.

(6) A system protecting more than one space must have a manifold with a normally closed stop valve for each space protected.

(7) A gas actuated valve or device must be capable of manual override at the valve or device.

(8) A system, which has more than one storage cylinder for the extinguishing agent and which relies on pilot cylinders to activate the primary storage cylinders, must have at least two pilot cylinders. Local manual controls in compliance with paragraph (b)(3) of this section must be provided to operate the pilot cylinders but are not required for the primary storage cylinders.

(9) A system protecting a manned space must be fitted with a time delay and alarm of a type approved by the Commandant, arranged to require the alarm to sound for at least 20 seconds or the time necessary to escape from the space, whichever is greater, before the agent is released into the space. Alarms must be conspicuously and centrally located. The alarm must be powered by the extinguishing agent.

(10) A device must be provided to automatically shut down power ventilation serving the protected space and engines which draw intake air from the protected space prior to release of the extinguishing agent into the space.

(11) Controls and storage cylinders must not be in a locked space unless the key is in a breakglass type box conspicuously located adjacent to the space.

(c) *Storage space.*

(1) Except as provided in paragraph (c)(2) of this section, a storage cylinder for a fixed gas extinguishing system must be:

(i) Located outside the space protected by the system; and

(ii) Not located in a space that might be inaccessible in the event of a fire in the space protected by the system.

(2) A normally unoccupied space of less than 6000 cubic feet may have the storage cylinders located within the space protected. When the storage cylinders are located in the space:

(i) The system must be capable of automatic operation by a heat actuator within the space; and

(ii) Have manual controls in compliance with paragraph (b) of this section except for paragraphs (b)(2) and (b)(3).

(3) A space containing a storage cylinder must be maintained at a temperature within the range from −20°F (−30°C) to 130°F (55°C) or at another temperature as listed by the independent laboratory and stated in the manufacturer's approved manual.

(4) A storage cylinder must be securely fastened, supported, and protected against damage.

(5) A storage cylinder must be accessible and capable of easy removal for recharging and inspection. Provisions must be available for weighing each storage cylinder in place.

(6) Where subject to moisture, a storage cylinder must be installed to provide a space of at least 2 inches between the deck and the bottom of the storage cylinder.

(7) A Halon 1301 storage cylinder must be stowed in an upright position unless otherwise listed by the independent laboratory. A carbon dioxide cylinder may be inclined not more than 30° from the vertical, unless fitted with flexible or bent siphon tubes, in which case they may be inclined not more than 80° from the vertical.

(8) Where a check valve is not fitted on an independent storage cylinder discharge outlet, a plug or cap must be provided for closing the outlet resulting from storage cylinder removal.

(9) Each storage cylinder must meet the requirements of § 147.60 of this chapter.

(10) A storage cylinder space must have doors which open outwards or be fitted with kickout panels installed in each door.

(d) *Piping.*

(1) A pipe, valve, or fitting of ferrous material must be protected inside and outside against corrosion unless otherwise approved by the Commandant. Aluminum or other low melting material must not be used for a component of a fixed gas fire extinguishing system except as specifically approved by the Commandant.

(2) A distribution line must extend at least 2 inches beyond the last orifice and be closed with a cap or plug.

(3) Piping, valves, and fittings must be securely supported, and where necessary, protected against damage.

(4) Drains and dirt traps must be fitted where necessary to prevent the accumulation of dirt or moisture and located in accessible locations.

(5) Piping must be used for no other purpose except that it may be incorporated with the fire detecting system.

(6) Piping passing through accommodation spaces must not be fitted with drains or other openings within such spaces.

(7) The distribution piping of a carbon dioxide fixed gas extinguishing system must be tested as required by this paragraph, upon completion of the piping installation, using only carbon dioxide, compressed air, or nitrogen gas.

(i) Piping between a storage cylinder and a stop valve in the manifold must be subjected to a pressure of 1,000 psi, except as permitted in paragraph (d)(7)(iii) of this section. Without additional gas being introduced to the system, the pressure drop must not exceed 300 psi after two minutes.

(ii) A distribution line to a space protected by the system must be subjected to a test pressure of 600 psi. For the purpose of this test, the distribution piping must be capped within the space protected at the first joint between the nozzles and the storage cylinders.

(iii) A small independent system protecting a space such as a paint locker may be tested by blowing out the piping with air at a pressure of not less than 100 psi.

(8) The distribution piping of a Halon 1301 fixed gas extinguishing system must be tested, as required by this paragraph, upon completion of the piping installation, using only carbon dioxide, compressed air, or nitrogen.

(i) When pressurizing the piping, pressure must be increased in small increments. Each joint must be subjected to a soap bubble leak test, and all joints must be leak free.

(ii) Piping between the storage cylinders and the manifold stop valve must be subjected to a leak test conducted at the maximum allowable working pressure at 130°F (55°C). Without additional gas being added to the system, there must be no loss of pressure over a two minute period after thermal equilibrium is reached.

(iii) Distribution piping between the manifold stop valve and the first nozzle in the system must be capped and pneumatically tested for a period of 10 minutes at 150 psig. At the end of 10 minutes, the pressure drop must not exceed 10% of the test pressure.

(e) *Pressure relief.* When required by the cognizant OCMI, spaces which are protected by a fixed gas fire extinguishing system and which are relatively air tight, such as refrigeration spaces, paint lockers, etc., must be provided with suitable means for relieving excessive pressure within the space when the agent is released.

(f) *Specific requirements for carbon dioxide systems.* A custom engineered fixed gas fire extinguishing system, which uses carbon dioxide as the extinguishing agent, must meet the requirements of this paragraph.

(1) Piping, valves, and fittings must have a bursting pressure of not less than 6,000 psi. Piping, in nominal sizes of not more than ¾ inch, must be at least Schedule 40 (standard weight), and in nominal sizes of over ¾ inch, must be at least Schedule 80 (extra heavy).

(2) A pressure relief valve or equivalent set to relieve at between 2,400 and 2,800 psi must be installed in the distribution manifold to protect the piping from overpressurization.

(3) Nozzles must be approved by the Commandant.

(4) When installed in a machinery space, paint locker, a space containing flammable liquid stores, or a space with a fuel tank, a fixed carbon dioxide system must meet the following requirements.

(i) The quantity of carbon dioxide (in pounds) that the system must be capable of providing to a space must not be less than the gross volume of the space divided by the appropriate factor given in Table 118.410(f)(4)(i). If fuel can drain from a space being protected to an adjacent space or if the spaces are not entirely separate, the volume of both spaces must be used to determine the quantity of carbon dioxide required. The carbon dioxide must be arranged to discharge into both such spaces simultaneously.

TABLE 118.410(f)(4)(i)

Factor	Gross volume of space in cubic feet	
	Over	Not over
15		500
16	500	1,600
18	1,600	4,500
20	4,500	50,000
22	50,000	

(ii) The minimum size of a branch line to a space must be as noted in Table 118.410(f)(4)(ii).

TABLE 118.410(f)(4)(ii)

Maximum quantity of carbon dioxide (pounds)	Minimum nominal pipe size (inches)	Maximum quantity of carbon dioxide required (pounds)	Minimum nominal pipe size (inches)
100	.50	2,500	2.5
225	.75	4,450	3
300	1	7,100	3.5
600	1.25	10,450	4
1,000	1.5	15,000	4.5
2,450	2		

(iii) Distribution piping within a space must be proportioned from the distribution line to give proper supply to the outlets without throttling.

(iv) The number, type, and location of discharge outlets must provide uniform distribution of carbon dioxide throughout a space.

(v) The area of each discharge outlet must not exceed 85 percent nor be less than 35 percent of the nominal cylinder outlet area or the area of the supply pipe, whichever is smaller. The nominal cylinder outlet area (in square inches) is determined by multiplying the factor 0.0022 by the total capacity (in pounds) of all carbon dioxide cylinders in the system, except in no case must the outlet area be of less than 0.110 square inch.

(vi) The discharge of at least 85 percent of the required amount of carbon dioxide must be completed within two minutes.

(5) When installed in an enclosed ventilation system for rotating electrical propulsion equipment a fixed carbon dioxide system must meet the following requirements.

(i) The quantity of carbon dioxide (in pounds) must be sufficient for initial and delayed discharges as required by this paragraph. The initial discharge must be equal to the gross volume of the system divided by 10 for ventilation systems having a volume of less than 2,000 cubic feet, or divided by 12 for ventilation systems having a volume of at least 2,000 cubic feet. In addition, there must be sufficient carbon dioxide available to permit delayed discharges to maintain at least a 25 percent concentration until the equipment can be stopped. If the initial discharge achieves this concentration until the equipment is stopped, a delayed discharge is not required.

(ii) The piping sizes for the initial discharge must be in accordance with Table 118.410(f)(4)(ii) and the discharge of the required amount must be completed within two minutes.

(iii) Piping for the delayed discharge must not be less than ½-inch nominal pipe size, may be incorporated with the initial discharge piping, and need not meet specific requirement for discharge rate.

(6) When installed in a cargo space a fixed carbon dioxide system must meet the following requirements.

(i) The number of pounds of carbon dioxide required for each space in cubic feet must be equal to the gross volume of the space in cubic feet divided by 30;

(ii) System piping must be of at least ¾-inch.

(iii) No specific discharge rate is required.

(g) *Specific requirements for Halon 1301 systems.*

(1) A custom engineered fixed gas fire extinguishing system which uses Halon 1301 must comply with the applicable sections of UL 1058 and the requirements of this paragraph (g).

(2) The Halon 1301 quantity and discharge requirements of UL 1058 apply, with the exception that the Halon 1301 design concentration must be 6 percent at the lowest ambient temperature expected in the space. If the lowest temperature is not known, a temperature of 0 °F must be assumed.

(3) Each storage cylinder in a system must have the same pressure and volume.

(4) Computer programs used in designing systems must be approved by an independent laboratory recognized by the Commandant.

§ 118.420 Pre-engineered fixed gas fire extinguishing systems.

(a) A pre-engineered fixed gas fire extinguishing system must:

(1) Be approved by the Commandant;

(2) Be capable of manual actuation from outside the space in addition to automatic actuation by a heat detector; and

(3) Automatically shut down all power ventilation systems and all engines that draw intake air from within the protected space.

(b) A vessel on which a pre-engineered fixed gas system is installed must have the following equipment at the operating station:

(1) A light to indicate discharge;

(ii) An audible alarm which sounds upon discharge; and

(iii) A means to reset devices used to automatically shut down ventilation systems and engines as required by paragraph (a)(3) of this section.

(c) Only one pre-engineered fixed gas system is allowed to be installed in each space protected by such a system.

§ 118.425 Galley hood fire extinguishing systems.

(a) A grease extraction hood required by § 118.400 must meet UL 710.

(b) A grease extraction hood must be equipped with a dry or wet chemical fire extinguishing system meeting the applicable sections of NFPA 17 or 17A, and must be listed by an independent laboratory recognized by the Commandant.

Subpart E—Portable Fire Extinguishers

§ 118.500 Required number, type, and location.

(a) Each portable fire extinguisher on a vessel must be of a type approved by the Commandant. The minimum number of portable fire extinguishers required on a vessel must be acceptable to the cognizant OCMI, but must be not less than the minimum number required by Table 118.500(a) and other provisions of this section.

TABLE.—118.500(a)

Space protected	Minimum number required	CG class	Medium	Medium size
Operation station	1	B–I, C–I	Halon CO2 Dry Chemical	2.5 lb. 4 lb. 2 lb.

TABLE.—118.500(a)—Continued

Space protected	Minimum number required	CG class	Medium	Medium size
Machinery Space	1	B–II, C–II located just outside exit	Halon	10 lb.
			CO_2	15 lb.
			Dry Chemical	10 lb.
Open vehicle deck	1 for each 10 vehicles	B–II	Foam	2.5 gal.
			Halon	10 lb.
			CO_2	15 lb.
			Dry Chemical	10 lb.
Accommodation space	1 for each 2,500 square feet or fraction thereof	A–II	Foam	2.5 gal.
			Dry Chemical	5 lb.
Galley, Pantry, Concession Stand	1	A–II, B–II	Foam	2.5 gal.
			Dry Chemical	10 lb.

(b) A vehicle deck without a fixed sprinkler system and exposed to weather must have one B-II portable fire extinguisher for every five vehicles, located near an entrance to the space.

(c) The cognizant OCMI may permit the use of a larger portable fire extinguisher, or a semiportable fire extinguisher, in lieu of those required by this section.

(d) The frame or support of each B-V fire extinguisher permitted by paragraph (c) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

§ 118.520 Installation and location.

Portable fire extinguishers must be located so that they are clearly visible and readily accessible from the space being protected. The installation and location must be to the satisfaction of the cognizant OCMI.

Subpart F—Additional Equipment

§ 118.600 Fire axe.

A vessel of more than 65 feet in length must have at least one fire axe located in or adjacent to the primary operating station.

PART 119—MACHINERY INSTALLATION

Subpart A—General Provisions

Sec.

119.100 Intent.
119.115 Applicability to existing vessels.

Subpart B—Propulsion Machinery

119.200 General.
119.220 Installations.

Subpart C—Auxiliary Machinery

119.300 General.
119.310 Installations.
119.320 Hot water heaters.
119.330 Pressure vessels.

Subpart D—Specific Machinery Requirements

119.400 Applicability.
119.405 Fuel restrictions.
119.410 General requirements.
119.420 Engine cooling.
119.422 Keel cooler and grid cooler installations.
119.425 Engine exhaust cooling.
119.430 Engine exhaust pipe installation.
119.435 Integral fuel tanks.
119.440 Independent fuel tanks.
119.445 Fill and sounding pipes for fuel tanks.
119.450 Vent pipes for fuel tanks.
119.455 Fuel piping.
119.458 Portable fuel systems.
119.465 Ventilation of spaces containing diesel machinery.
119.470 Ventilation of spaces containing diesel fuel tanks.

Subpart E—Bilge and Ballast Systems

119.500 General.
119.510 Bilge piping system.
119.520 Bilge pumps.
119.530 Bilge level alarms.
119.540 Ballast systems.

Subpart F—Steering Systems

119.600 General.

Subpart G—Piping Systems

119.700 General.
119.710 Piping for vital systems.
119.715 Piping subject to more than 15 psi in non-vital systems.
119.720 Nonmetallic piping materials.
119.730 Nonferrous metallic piping materials.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 119.100 Intent.

This part contains requirements for the design, construction, installation, and operation of propulsion and auxiliary machinery, piping and pressure systems, steering apparatus, and associated safety systems. Machinery and equipment installed on each vessel must be suitable for the vessel and its operation and for the purpose intended. All machinery and equipment must be installed and maintained in such a manner as to afford adequate protection from causing fire, explosion, machinery failure, and personnel injury.

§ 119.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraph (b) of this section, an existing vessel must comply with the regulations on machinery, bilge and ballast system equipment, steering apparatus, and piping systems or components which were applicable to the vessel on *[date of day before effective date of the final rule]* or, as an alternative, the vessel may comply with the regulations in this part.

(b) New installations of machinery, bilge and ballast system equipment, steering equipment, and piping systems or components on an existing vessel, which are completed to the satisfaction of the cognizant OCMI on or after *[effective date of the final rule]*, must comply with the regulations of this part. Replacement of existing equipment installed on the vessel prior to *[effective date of the final rule]* need not comply with the regulations in this part.

Subpart B—Propulsion Machinery

§ 119.200 General.

(a) Propulsion machinery must be suitable in type and design for propulsion requirements of the hull in which it is installed and capable of operating at constant marine load under such requirements without exceeding its designed limitations.

(b) All engines must have at least two means for stopping the engine(s) under any operating conditions. The fuel oil shutoff required at the engine by § 119.455(b)(4) will satisfy one means of stopping the engine.

§ 119.220 Installations.

(a) The installation requirements for machinery and boilers for steam and electrically propelled vessels are contained in applicable regulations in subchapter F (Marine Engineering) and subchapter J (Electrical Engineering) of this chapter.

(b) Installation of propulsion machinery of an unusual type for small passenger vessels must be given separate consideration and must be subject to such requirements as determined necessary by the cognizant OCMI. Unusual types of propulsion machinery include:

(1) Gas turbine machinery installations;

(2) Air screws;

(3) Hydraulic jets; and

(4) Machinery installations using propulsion and lift devices.

Subpart C—Auxiliary Machinery

§ 119.300 General.

Auxiliary machinery must be suitable in type and design for the purpose intended.

§ 119.310 Installations.

(a) Auxiliary machinery of the internal combustion piston type must comply with the provisions of this part.

(b) Auxiliary machinery of the steam or gas turbine type will be given separate consideration and must meet the applicable requirements of subchapter F (Marine Engineering) of this chapter as determined necessary by the cognizant OCMI.

(c) Auxiliary boilers and heating boilers and their associated piping and fittings will be given separate consideration and must meet the applicable requirements of subchapter F (Marine Engineering) of this chapter as determined necessary by the cognizant OCMI, except that heating boilers must be tested or examined every three years.

§ 119.320 Hot water heaters.

(a) A hot water heater must meet the requirements of parts 52 and 63 of this chapter if rated at more than 100 psig (689 kPa) or 250 °F (121 °C).

(b) A hot water heater must meet the requirements of parts 53 and 63 of this chapter if rated at not more than 100 psig (689 kPa) and 250 °F (121 °C), except that an electric hot water heater is also acceptable if it:

(1) Has a capacity of not more than 120 gallons (454 liters);

(2) Has a heat input of not more than 58.6 kilowatts (200,000 Btu per hour);

(3) Is listed by Underwriters' Laboratories under UL 174 or 1453; and

(4) Is protected by a pressure-temperature relief device.

§ 119.330 Pressure vessels.

All unfired pressure vessels must be installed to the satisfaction of the cognizant OCMI. The design, construction, and original testing of such unfired pressure vessels must meet the applicable requirements of subchapter F (Marine Engineering) of this chapter.

Subpart D—Specific Machinery Requirements

§ 119.400 Applicability.

(a) This subpart applies to all propulsion and auxiliary machinery installations of the internal combustion piston type.

(c) Where no specific fuel designation exists, the requirements of this subpart are applicable to all types of fuels and machinery.

§ 119.405 Fuel restrictions.

The use of a fuel, other than diesel fuel, as an alternative fuel for an internal combustion engine, except gasoline when used as a fuel for outboard motors as allowed by § 119.458, will be reviewed on a case-by-case basis by the Commandant.

§ 119.410 General requirements.

(a) Each starting motor, generator, and spark producing device must be mounted as high above the bilges as practicable.

(b) Gauges to indicate RPM, engine cooling water discharge temperature, and lubricating oil pressure must be provided for all propulsion engines installed in the vessel. The gauges must be readily visible at the operating station.

(c) In systems and applications where flexible hoses are permitted to be clamped:

(1) Double hose clamping is required on each end of the hose, where practicable, except that one hose clamp can be used if the pipe ends are expanded or beaded to provide a positive stop against hose slippage;

(2) The clamps must be of a corrosion resistant metallic material; and

(3) The clamps must not depend on spring tension for their holding power.

(d) An overspeed trip and or shutdown device must be installed on all diesel engine installations designed to produce 300 or more horsepower under ideal conditions, as follows:

(1) For main propulsion engines, meet section 34.11.6 of the ABS "Rules for Building and Classing Steel Vessels."

(2) For generator prime movers, meet section 35.21.2 of the ABS "Rules for Building and Classing Steel Vessels."

§ 119.420 Engine cooling.

(a) Except as otherwise provided in paragraph (b) of this section, all engines must be water cooled and meet the requirements of this paragraph.

(1) The engine head, block, and exhaust manifold must be water jacketed and cooled by water from a pump which operates whenever the engine is operating.

(2) A suitable hull strainer must be installed in the circulating raw water intake line of an engine cooling water system.

(3) A closed fresh water system may be used to cool the engine.

(b) A propulsion or auxiliary diesel engine may be air cooled or employ an air cooled jacket water radiator when:

(1) Installed on an open deck and sufficient ventilation for machinery cooling is available; or

(2) Installed in an enclosed or partially enclosed space for which ventilation for machinery cooling which complies with the requirement of § 119.465(b) of this chapter is provided, and other necessary safeguards are taken so as not to endanger the vessel.

§ 119.422 Keel and grid cooler installations.

(a) A keel or grid cooler installation used for engine cooling must be designed to prevent flooding.

(b) A shutoff valve must be located where the cooler piping penetrates the shell, as near the shell as practicable, except where the penetration is forward of the collision bulkhead.

(c) The thickness of the inlet and discharge connections, outboard of the shutoff valves required by paragraph (b) of this section, must be at least Schedule 80.

(d) Short lengths of approved nonmetallic flexible hose, fixed by hose clamps, may be used at machinery connections for a keel cooler installation.

§ 119.425 Engine exhaust cooling.

(a) Except as otherwise provided in this paragraph, all engine exhaust pipes must be water cooled.

(1) Vertical dry exhaust pipes are permissible if installed in compliance with §§ 116.405(c) and 116.970 of this subchapter.

(2) Horizontal dry exhaust pipes are permitted only if:

(i) They do not pass through living or berthing spaces;

(ii) They terminate above the deepest load waterline;

(iii) They are so arranged as to prevent entry of cold water from rough or boarding seas;

(iv) They are constructed of corrosion resisting material at the hull penetration; and

(v) They are installed in compliance with §§ 116.405(c) and 116.970 of this subchapter.

(b) The exhaust pipe cooling water system must comply with the requirements of this paragraph.

(1) Water for cooling the exhaust pipe must be obtained from the engine cooling water system or a separate engine driven pump.

(2) Water for cooling an exhaust pipe, other than a vertical exhaust, must be injected into the exhaust system as near to the engine manifold as practicable. The water must pass through the entire length of the exhaust pipe.

(3) The part of the exhaust system between the point of cooling water injection and the engine manifold must be water-jacketed or effectively insulated and protected in compliance with §§ 116.400(b) and 116.970 of this subchapter.

(4) Each vertical exhaust pipe must be water-jacketed or suitably insulated between the engine manifold and the spark arrester required by § 119.430(g).

(5) When the exhaust cooling water system is separate from the engine cooling water system, a suitable warning device, visual or audible, must be installed at the operating station to indicate any reduction in normal water flow in the exhaust cooling system.

(6) A suitable hull strainer must be installed in the circulating raw water intake line for the exhaust cooling system.

(c) Engine exhaust cooling systems built in accordance with the requirements of ABYC P–1 will be considered as meeting the requirements of this section.

§ 119.430 Engine exhaust pipe installation.

(a) The design of all exhaust systems must ensure minimum risk of injury to personnel. Protection must be provided in compliance with § 116.970 of this subchapter at such locations where persons or equipment might come in contact with an exhaust pipe.

(b) Exhaust gas must not leak from the piping or any connections. The piping must be properly supported by noncombustible hangers or blocks.

(c) The exhaust piping must be so arranged as to prevent backflow of water from reaching engine exhaust ports under normal conditions.

(d) An exhaust pipe discharge located less than 3 inches above the deepest load waterline must be fitted with means to prevent the ingress of water.

(e) Pipes used for wet exhaust lines must be at least Schedule 80 or corrosion-resistant material and adequately protected from mechanical damage.

(f) Where flexibility is necessary, a section of flexible metallic hose may be used. Nonmetallic hose may be used for wet exhaust systems provided it is especially adapted to resist the action of oil, acid, and heat, and has a wall thickness sufficient to prevent collapsing or panting.

(g) Where an exhaust pipe passes through a watertight bulkhead, the watertight integrity of the bulkhead must be maintained. Noncombustible packing must be used in bulkhead penetration glands for dry exhaust systems. A wet exhaust pipe may be welded to a steel bulkhead in way of a penetration if suitable arrangements are provided to relieve the stresses resulting from the expansion of the exhaust piping.

(h) A dry exhaust pipe must:

(1) If it passes through a combustible bulkhead or partition, be kept clear of and suitably insulated or shielded from combustible material.

(2) Be provided with noncombustible hangers and blocks for support.

(i) An exhaust pipe discharge terminating in a transom must be located as far outboard as practicable so that exhaust gases cannot re-enter the vessel.

(j) Arrangements must be made to provide access to allow complete inspection of the exhaust piping throughout its length.

(k) An exhaust installation subject to pressures in excess of 15 pounds per square inch gauge or having exhaust pipes passing through living or working spaces must meet the material requirements of part 56 of subchapter F (Marine Engineering) of this chapter.

(l) Engine exhaust installations built in accordance with the requirements of ABYC P–1 will be considered as meeting the requirements of this section.

§ 119.435 Integral fuel tanks.

(a) Diesel fuel tanks may not be built integral with the hull of a vessel unless the hull is made of steel or aluminum.

(b) During the initial inspection for certification of a vessel, integral fuel tanks must withstand a hydrostatic pressure test of 5 pounds per square inch, or the maximum pressure head to which they may be subjected in service, whichever is greater. A standpipe of 11.5 feet in height attached to the tank may be filled with water to accomplish the 5 pounds per square inch test.

§ 119.440 Independent fuel tanks.

(a) *Materials and construction.* Independent fuel tanks must be designed and constructed of materials in compliance with the requirements of this paragraph.

(1) The material used and the minimum thickness allowed must be as indicated in Table 119.440(a)(1), except that other materials which provide equivalent safety may be approved for use under paragraph (a)(3) of this section. Tanks having a capacity of more than 150 gallons must be designed to withstand the maximum head to which they may be subjected in service, but in no case may the thickness be less than that specified in Table 119.440(a)(1).

TABLE.—119.440(a)(1)

Material	ASTM specification (latest edition)	Thickness in inches & gage number[1] vs. tank capacities for		
		1 to 80 gallon tanks	More than 80 and not more than 150 gallon tanks	Over 150[2] gallon tanks
Nickel-copper	B127, hot rolled sheet or plate	0.037 (USSG 20)[3].	0.050 (USSG 18)	0.107 (USSG 12)
Steel or iron[4 5]		0.0747 (MSG 14)	0.1046 (MSG 12)	0.1793 (MSG 7)

TABLE.—119.440(a)(1)—Continued

Material	ASTM specification (latest edition)	Thickness in inches & gage number[1] vs. tank capacities for		
		1 to 80 gallon tanks	More than 80 and not more than 150 gallon tanks	Over 150[2] gallon tanks
Aluminum[6]	B209, alloy 5052, 5083, 5086	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3)
Fiber reinforced plastic		As required[7]	As required[7]	As required[7]

[1] The gage numbers used in this table may be found in many standard engineering reference books. The letters "USSG" stand for "U.S. Standard Gage," which was established by the act of March 3, 1892 (15 U.S.C. 206), for sheet and plate iron and steel. The letters "MSG" stand for "Manufacturers' Standard Gage" for sheet steel thickness.

[2] Tanks over 400 gallons shall be designed with a factor of safety of four on the ultimate strength of the material used with a design head of not less than 4 feet of liquid above the top of the tank.

[3] Nickel-copper not less than 0.031 inch (USSG 22) may be used for tanks up to 30-gallon capacity.

[4] Tanks intended for use with diesel oil shall not be internally galvanized.

[5] Stainless steel tanks are not included in this category.

[6] Anodic to most common metals. Avoid dissimilar metal contact with tank body.

[7] The requirements of § 119.440(a)(2) apply.

(2) Fiber reinforced plastic may be used for diesel fuel tanks under the following provisions:

(i) The materials must be fire retardant. Flammability of the material must be determined by the standard test methods ASTM D635 and ASTM D2863. The results of these tests must show that the average extent of burning is less than 0.394 inches (10mm), the average time of burning is less than 50 seconds, and the limiting oxygen index is greater than 21.

(ii) Tanks must meet UL 1102. Testing may be accomplished by an independent laboratory or by the fabricator to the satisfaction of the OCMI.

(iii) Tanks must be designed to withstand the maximum head to which they may be subjected to in service.

(iv) Installation of nozzles, flanges or other fittings for pipe connections to the tanks must be acceptable to the cognizant OCMI.

(v) Baffle plates, if installed, must be of the same material and not less than the minimum thickness of the tank walls. Limber holes at the bottom and air holes at the top of all baffles must be provided. Baffle plates must be installed at the time the tests required by UL 1102 are conducted.

(3) Materials other than those listed in Table 119.440(a)(1) must be approved by the Commandant. An independent tank using material approved by the Commandant under this paragraph (a) must meet the testing requirements of UL 1102. Testing may be accomplished by an independent laboratory or by the fabricator to the satisfaction of the OCMI.

(4) Tanks with flanged-up top edges which may trap and hold moisture are prohibited.

(5) Openings for fill pipes, vent pipes, and machinery fuel supply pipes, and openings for fuel level gauges, where used, must be on the topmost surfaces of tanks. Tanks may not have any openings in bottoms, sides, or ends, except for:

(i) An opening fitted with a threaded plug or cap installed for tank cleaning purposes; and

(ii) In a diesel fuel tank, openings for supply piping and tubular gauge glasses.

(6) All tank joints must be welded or brazed. Lap joints may not be used.

(7) Nozzles, flanges, or other fittings for pipe connections to a metal tank must be welded or brazed to the tank. Tank openings in way of pipe connections must be properly reinforced where necessary. Where fuel level gauges are used on a metal tank, the flanges to which gauge fittings are attached must be welded or brazed to the tank. Tubular gauge glasses, if fitted to diesel fuel tanks, must be of heat resistant materials, adequately protected from mechanical damage, and provided at the tank connections with devices which will automatically close in the event of rupture of the gauge or gauge lines.

(8) A metal tank exceeding 30 inches in any horizontal dimension must:

(i) Be fitted with vertical baffle plates, which meet paragraph (a)(9) of this section, at intervals not exceeding 30 inches to provide strength and to control the excessive surge of fuel; or

(ii) The owner shall submit calculations to the cognizant OCMI demonstrating the structural adequacy of the tank in a fully loaded static condition and in a worst case dynamic (sloshing) condition.

(9) Baffle plates, where required in metal tanks, must be of the same material and not less than the minimum thickness required in the tank walls and must be connected to the tank walls by welding or brazing. Limber holes at the bottom and air holes at the top of all baffles must be provided.

(10) Iron or steel diesel fuel tanks must not be galvanized on the interior. Galvanizing, paint, or other suitable coating must be used to protect the outside of iron and steel diesel fuel tanks.

(b) *Location and installation.* Independent fuel tanks must be located and installed in compliance with the requirements of this paragraph.

(1) Fuel tanks must be located in, or as close as practicable to, machinery spaces.

(2) Fuel tanks and fittings must be so installed as to permit examination, testing, or removal for cleaning with minimum disturbance to the hull structure.

(3) Fuel tanks must be adequately supported and braced to prevent movement. The supports and braces must be insulated from contact with the tank surfaces with a nonabrasive and nonabsorbent material.

(4) All fuel tanks must be electrically bonded to a common ground.

(c) *Tests.* Independent fuel tanks must be tested in compliance with the requirements of this part prior to being used to carry fuel.

(1) Prior to installation, tanks vented to the atmosphere must be hydrostatically tested to, and must withstand, a pressure of 5 pounds per square inch or 1.5 times the maximum pressure head to which they may be subjected in service, whichever is greater. A standpipe of 11.5 feet in height attached to the tank may be filled with water to accomplish the 5 pounds per square inch test. Permanent deformation of the tank will not be cause for rejection unless accompanied by leakage.

(2) After installation of the fuel tank on a vessel, the complete installation must be tested in the presence of a marine inspector to a head not less than that to which the tank may be subjected

in service. Fuel may be used as the testing medium.

(3) All tanks not vented to the atmosphere must be constructed and tested in accordance with § 119.330.

§ 119.445 Fill and sounding pipes for fuel tanks.

(a) Fill pipes for fuel tanks must be not less than 1.5 inches nominal pipe size.

(b) There must be a means of accurately determining the amount of fuel in each fuel tank either by sounding, through a separate sounding pipe or a fill pipe, or by an installed marine type fuel gauge.

(c) Where sounding pipes are used, each opening must be at least as high as the opening of the fill pipe and they must be kept closed at all times except during sounding.

(d) Fill pipes and sounding pipes must be so arranged that overflow of liquid or vapor cannot escape to the inside of the vessel.

(e) Fill pipes and sounding pipes must run as directly as possible, preferably in a straight line, from the deck connection to the top of the tank. Such pipes must terminate on the weather deck and must be fitted with shutoff valves, watertight deck plates, or screw caps, suitably marked for identification. Diesel fill pipes and sounding pipes may terminate at the top of the tank.

(f) Where a flexible fill pipe section is necessary, suitable flexible tubing or hose having high resistance to salt water, petroleum oils, heat and vibration, may be used. Such hose must overlap metallic pipe ends at least 1.5 times the pipe diameter and must be secured at each end by clamps. The flexible section must be accessible and as near the upper end of the fill pipe as practicable. When the flexible section is a nonconductor of electricity, the metallic sections of the fill pipe separated thereby must be joined by a conductor for protection against generation of a static charge when filling with fuel.

§ 119.450 Vent pipes for fuel tanks.

(a) Each unpressurized fuel tank must be fitted with a vent pipe connected to the highest point of the tank.

(b) The minimum net cross sectional area of the vent pipe for diesel fuel tanks must be as follows:

(1) Not less than the cross sectional area of ⅝-inch outer diameter (O.D.) tubing (0.035-inch wall thickness, 20 gauge), if the fill pipe terminates at the top of the tank;

(2) Not less than the cross sectional area of ¾-inch O.D. tubing (0.035-inch wall thickness, 20 gauge), if the fill pipe extends into the tank; and

(3) Not less than the cross sectional area of the fill pipe if the tank is filled under pressure.

(c) The discharge ends of fuel tank vent pipes must terminate on the hull exterior as high above the waterline as practicable and remote from any hull openings, or they must terminate in U-bends as high above the weather deck as practicable and as far as practicable from openings into any enclosed spaces. Vent pipes terminating on the hull exterior must be installed or equipped to prevent the accidental contamination of the fuel by water under normal operating conditions.

(d) The discharge ends of fuel tank vent pipes must be fitted with removable flame screens or flame arresters. The flame screens must consist of a single screen of corrosion resistant wire of at least 30x30 mesh. The flame screens or flame arresters must be of such size and design as to prevent reduction in the net cross sectional area of the vent pipe and permit cleaning or renewal of the flame screens or arrester elements.

(e) Where a flexible vent pipe section is necessary, suitable flexible tubing or hose having high resistance to salt water, petroleum oils, heat and vibration, may be used. Such hose must overlap metallic pipe ends at least 1.5 times the pipe diameter and must be secured at each end by clamps. The flexible section must be accessible and as near the upper end of the vent pipe as practicable.

§ 119.455 Fuel piping.

(a) *Materials and workmanship.* The materials and construction of fuel lines, including pipe, tube, and hose, must comply with the requirements of this paragraph.

(1) Fuel lines must be annealed tubing of copper, nickel-copper, or copper-nickel having a minimum wall thickness of 0.035 inch except that:

(i) Diesel fuel piping of other materials, such as seamless steel pipe or tubing, which provide equivalent safety may be used;

(ii) Diesel fuel piping of aluminum is acceptable on aluminum hull vessels provided it is installed outside the machinery space and is at least Schedule 80; and

(iii) When used, flexible hose must meet the requirements of § 56.60–25 of this chapter.

(2) Tubing connections and fittings must be of nonferrous drawn or forged metal of the flared type except that flareless fittings of the nonbite type may be used when the tubing system is of nickel-copper or copper-nickel. When making tube connections, the tubing must be cut square and flared by suitable tools. Tube ends must be annealed before flaring.

(3) Cocks are prohibited except for the solid bottom type with tapered plugs and union bonnets.

(b) *Installation.* The installation of fuel lines, including pipe, tube, and hose, must comply with the requirements of this paragraph.

(1) Diesel fuel lines may be connected to the fuel tank at or near the bottom of the tank.

(2) Fuel lines must be accessible, protected from mechanical injury, and effectively secured against excessive movement and vibration by the use of soft nonferrous metal straps which have no sharp edges and are insulated to protect against corrosion. Where passing through bulkheads, fuel lines must be protected by close fitting ferrules or stuffing boxes. All fuel lines and fittings must be accessible for inspection.

(3) Shutoff valves, installed so as to close against the fuel flow, must be fitted in the fuel supply lines, one at the tank connection and one at the engine end of the fuel line to stop fuel flow when servicing accessories. The shutoff valve at the tank must be manually operable from outside the compartment in which the valve is located, preferably from an accessible position on the weather deck. If the shutoff valve at the tank is located inside the tank compartment, it must be located so that the operator does not have to reach more than 12 inches into the compartment and be shielded from flames by the same material the hull is constructed of, or some noncombustible material. Electric solenoid valves must not be used, unless used in addition to the manual valve.

(4) A loop of copper tubing or a short length of flexible hose must be installed in the fuel supply line at or near the engines. The flexible hose must meet the requirements of § 56.60–25 of this chapter.

(5) A suitable metal marine type strainer, meeting the requirements of the engine manufacturer, must be fitted in the fuel supply line in the engine compartment. Strainers must be leak free. Strainers must be of the type opening on top for cleaning screens. Fuel filter and strainer bowls must be highly resistant to shattering due to mechanical impact and resistant to failure due to thermal shock. Fuel filters fitted with bowls of other than steel construction must be approved by the Commandant and be protected from mechanical damage. Approval of bowls

of other than steel construction will specify if a flame shield is required.

(6) All accessories installed in the fuel line must be independently supported.

(7) Valves for removing water or impurities from diesel fuel in water traps or strainers are permitted. These valves must be provided with caps or plugs to prevent fuel leakage.

§ 119.458 Portable fuel systems.

(a) Portable fuel systems, including portable tanks and related fuel lines and accessories, are prohibited except where used for outboard motor installations.

(b) The design, construction and stowage of portable tanks and related fuel lines and accessories must meet the requirements of ABYC H–25.

§ 119.465 Ventilation of spaces containing diesel machinery.

(a) A space containing diesel machinery must be fitted with adequate means, such as dripproof ventilators, ducts, or louvers, to provide sufficient air for proper operation of main engines and auxiliary engines.

(b) Air-cooled propulsion and auxiliary diesel engines installed below deck, as permitted by § 119.420, must be fitted with air supply ducts or piping from the weather deck. The ducts or piping must be so arranged and supported to be capable of safely sustaining stresses induced by weight and engine vibration and to minimize transfer of vibration to the supporting structure. Prior to installation of ventilation system for such engines, plans or sketches showing machinery arrangement including air supplies, exhaust stack, method of attachment of ventilation ducts to the engine, location of spark arresting mufflers and capacity of ventilation blowers must be submitted to the cognizant OCMI for approval.

(c) A space containing diesel machinery must be fitted with at least two ducts to furnish natural or powered supply and exhaust ventilation. One duct must extend to a point near the bottom of the space, and be so installed that the ordinary collection of water in the bilge will not block air flow in the duct. Where powered ventilation is installed, the duct extending near the bottom of the space must be the exhaust. The total inlet area and the total outlet area of each ventilation duct may not be less than one square inch for each foot of beam of the vessel. These minimum areas must be increased as necessary when the ducts are considered as part of the air supply to the engines.

(d) A duct must be of rigid permanent construction, which does not allow any appreciable vapor flow except through normal openings, and made of the same material as the hull or of noncombustible material. The duct must lead as directly as possible from its intake opening to its terminus and be securely fastened and supported.

(e) A supply duct must be provided with a cowl or scoop having a free area not less than twice the required duct area. When the cowl or scoop is screened, the mouth area must be increased to compensate for the area of the screen wire. A cowl or scoop must be kept open at all times except when the weather is such as to endanger the vessel if the openings are not temporarily closed.

(f) Dampers may not be fitted in a supply duct.

(g) A duct opening may not be located where the natural flow of air is unduly obstructed, adjacent to possible sources of vapor ignition, or where exhaust air may be taken into a supply duct.

(h) Provision must be made for closing all supply duct cowls or scoops and exhaust duct discharge openings for a space protected by a fixed gas extinguishing system. All closure devices must be readily available and mounted in the vicinity of the vent.

§ 119.470 Ventilation of spaces containing diesel fuel tanks.

(a) Unless provided with ventilation which complies with § 119.465, a space containing a diesel fuel tank and no machinery must meet one of the following requirements:

(1) A space of 500 cubic feet or more in volume must have a gooseneck vent of not less than 2.5 inches in diameter; or

(2) A space of less than 500 cubic feet in volume must have a gooseneck vent of not less than 1.5 inches in diameter.

(b) Vent openings may not be located adjacent to possible sources of vapor ignition.

Subpart E—Bilge and Ballast Systems

§ 119.500 General.

(a) A vessel must be provided with a satisfactory arrangement for draining any watertight compartment, other than small buoyancy compartments, under all practicable conditions. Sluice valves are not permitted in watertight bulkheads.

(b) Special consideration may be given to vessels, such as dynamically supported craft, that have a high degree of subdivision and utilize numerous small buoyancy compartments. Where the probability of flooding of the space is limited to external hull damage, compartment drainage may be omitted provided it can be shown by stability calculations, submitted to the cognizant OCMI, that the safety of the vessel will not be impaired.

§ 119.510 Bilge piping system.

A vessel must be provided with a piping system that meets § 56.50–50 of this chapter, with the following exceptions:

(a) The space forward of the collision bulkhead need not be fitted with a bilge suction line when the arrangement of the vessel is such that ordinary leakage may be removed from this compartment by the use of a hand portable bilge pump or other equipment, and such equipment is provided; and

(b) The vessel need not comply with § 56.50–50(f).

§ 119.520 Bilge pumps.

(a) Each vessel must be provided with bilge pumps in accordance with § 56.50–55 of this chapter, with the following exceptions:

(1) Note 1 in Table 56.50–55(a) is not applicable and should be disregarded; and

(2) A non-self-propelled vessel must comply with § 56.50–55(a) of this chapter instead of § 56.50–55(b).

(b) In addition to the requirements of paragraph (a) of this section, a vessel of not more than 65 feet in length must have a portable hand bilge pump which must be:

(1) Capable of pumping water, but not necessarily simultaneously, from all watertight compartments; and

(2) Provided with suitable suction and discharge hoses capable of reaching the bilges of each watertight compartment, and discharging overboard.

(c) A second power pump is an acceptable alternative to a hand pump if it is supplied by a source independent of the first power bilge pump.

§ 119.530 Bilge level alarms.

(a) Each vessel must be provided with a visual and audible alarm at the operating station to indicate high bilge level in all normally unattended machinery spaces located below the deepest load waterline.

(b) A visual indicator must be provided at the operating station to indicate when any automatic bilge pump is operating.

§ 119.540 Ballast systems.

Solid and water ballast must comply with the requirements of subpart L of part 116 of this subchapter.

Subpart F—Steering Systems

§ 119.600 General.

A self-propelled vessel must meet the applicable requirements for main and

auxiliary steering apparatus in subchapters F (Marine Engineering) and J (Electrical Engineering) of this chapter.

Subpart G—Piping Systems

§ 119.700 General.

Materials used in piping systems must meet the requirements of this subpart and be otherwise acceptable to the cognizant OCMI.

§ 119.710 Piping for vital systems.

(a) Vital systems are those systems which are vital to a vessel's survivability and safety. For the purpose of this part the following are vital systems:

(1) Fuel system;
(2) Fire main;
(3) CO_2 and Halon systems;
(4) Bilge system;
(5) Steering system;
(6) Propulsion system and its necessary auxiliaries and controls;
(7) Ship's service and emergency electrical generation system and its necessary auxiliaries; and
(8) A marine engineering system identified by the cognizant OCMI as being crucial to the survival of the vessel or to the protection of the personnel on board.

(b) For the purpose of this part, a system not identified in paragraph (a) of this section is a non-vital system.

(c) Piping used in a vital system must meet part 56, subpart 56.60 of this chapter, except that § 119.730 replaces § 56.60–20 of this chapter.

§ 119.715 Piping subject to more than 150 psi in non-vital systems.

Piping subject to more than 150 psi in a non-vital system must be designed, fabricated, and inspected in accordance with the principles of ANSI B 31.1 or other industry standard acceptable to the Commandant.

§ 119.720 Nonmetallic piping materials.

Nonmetallic piping materials, including nonmetallic flexible hose assemblies, must meet the requirements of § 56.60–25 of this chapter.

§ 119.730 Nonferrous metallic piping materials.

(a) Nonferrous metallic piping materials are acceptable for use in the following:

(1) Non-vital systems;
(2) Aluminum fuel piping on an aluminum hulled vessel, if at least Schedule 80 and located outside the machinery space;
(3) Aluminum bilge, ballast, and firemain piping on an aluminum hulled vessel;
(4) If acceptable to the cognizant OCMI, nonferrous metallic piping with a melting temperature above 1700°F may be used in vital systems that are deemed to be galvanically compatible; and
(5) Other uses specifically accepted by the cognizant OCMI.

(b) Where nonferrous metallic material is permitted for use in piping systems by this subpart, the restrictions in this paragraph apply:

(1) Provisions must be made to protect piping systems using aluminum alloys in high risk fire areas due to the low melting point of aluminum alloys;

(2) Provisions must be made to prevent or mitigate the effect of galvanic corrosion due to the relative solution potentials of copper, aluminum, and alloys of copper and aluminum, which are used in conjunction with each other, steel, or other metals and their alloys;

(3) A suitable thread compound must be used in making up threaded joints in aluminum pipe to prevent seizing. Pipe in the annealed temper must not be threaded;

(4) The use of aluminum alloys with a copper content exceeding 0.6 percent is prohibited; and

(5) The use of cast aluminum alloys in hydraulic fluid power systems must be in accordance with the requirements of § 58.30–15(f) of this chapter.

PART 120—ELECTRICAL INSTALLATIONS

Subpart A—General Provisions

Sec.

120.100 Intent.
120.115 Applicability to existing vessels.

Subpart B—General Requirements

120.200 General design, installation, and maintenance requirements.
120.210 Protection from wet and corrosive environments.
120.220 General safety provisions.

Subpart C—Power Sources and Distribution Systems

120.310 Power sources.
120.312 Power sources on vessels more than 65 feet in length with overnight accommodations for more than 49 passengers.
120.320 Generators and motors.
120.322 Multiple generators.
120.324 Dual voltage generators.
120.330 Distribution panels and switchboards.
120.340 Cable and wiring requirements.
120.350 Batteries—general.
120.352 Battery categories.
120.354 Battery installations.
120.360 Semiconductor rectifier systems.
120.370 System and equipment grounding.
120.380 Overcurrent protection.
120.390 Shore power.
120.392 Radiotelephone installations.

Subpart D—Lighting Systems

120.410 Lighting fixtures.
120.420 Navigation lights.
120.430 Portable lights.
120.432 Emergency lighting.
120.434 Lifeboats and liferaft floodlights on vessel more than 65 feet in length with overnight accommodations for more than 49 passengers.

Subpart E—Miscellaneous Systems and Requirements

120.520 Lifeboat winches.
120.530 Hazardous areas.
120.540 Elevators.
120.550 General alarm systems.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 120.100 Intent.

This part contains requirements for the design, construction, installation, and operation of electrical equipment and systems including power sources, lighting, motors, miscellaneous equipment, and safety systems.

§ 120.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraphs (b) and (c) of this section, an existing vessel must comply with the regulations on electrical installations, equipment, and material which were applicable to the vessel on [date of the day before the effective date of the final rule] or, as an alternative, the vessel may comply with the regulations in this part.

(b) An existing vessel must comply with the requirements of §§ 120.420 and 120.430.

(c) New installations of electrical equipment and material, and the repair or replacement of wire and cable, on an existing vessel, which are completed to the satisfaction of the cognizant OCMI on or after [effective date of the final rule], must comply with this part. Replacement of existing equipment, not including wire or cable, installed on the the vessel prior to [effective date of the final rule] need not comply with the regulations in this part.

Subpart B—General Requirements

§ 120.200 General design, installation, and maintenance requirements.

Electrical equipment on a vessel must be installed and maintained to:

(a) Provide services necessary for safety under normal and emergency conditions;

(b) Protect passengers, crew, other persons, and the vessel from electrical hazards, including fire, caused by or originating in electrical equipment, and electrical shock;

(c) Minimize accidental personnel contact with energized parts; and
(d) Prevent electrical ignition of flammable vapors.

§ 120.210 Protection from wet and corrosive environments.

(a) Electrical equipment used in the following locations must be dripproof:
(1) A machinery space;
(2) A location normally exposed to splashing, water washdown, or other wet conditions within a galley, a laundry, or a public washroom or toilet room that has a bath or shower; or
(3) Another space with a similar moisture level.
(b) Electrical equipment exposed to the weather must be watertight.
(c) Electrical equipment exposed to corrosive environments must be of suitable construction and corrosion-resistant.

§ 120.220 General safety provisions.

(a) Electrical equipment and installations must be suitable for the roll, pitch, and vibration of the vessel underway.
(b) All equipment, including switches, fuses, lampholders, etc., must be suitable for the voltage and current utilized.
(c) Receptacle outlets of the type providing a grounded pole or a specific direct current polarity must be of a configuration that will not permit improper connection.
(d) All electrical equipment and circuits must be clearly marked and identified.
(e) Any cabinet, panel, box, or other enclosure containing more than one source of power must be fitted with a sign warning persons of this condition and identifying the circuits to be disconnected.

Subpart C—Power Sources and Distribution Systems

§ 120.310 Power sources.

(a)(1) Each vessel that relies on electricity to power the following loads must have at least two sources of electricity for each load:
(i) The vital systems listed in § 119.710 of this subchapter.
(ii) Interior lighting except for decorative lights.
(iii) Communication systems including a public address system required under § 121.610 of this subchapter.
(iv) Navigation equipment and lights.
(2) Except as provided in § 120.312, a vessel with batteries of adequate capacity to supply the loads specified in paragraph (a)(1) of this section, and a generator or alternator driven by a propulsion engine, complies with the requirement in paragraph (a)(1) of this section.
(b) Where a ship service generator driven by a propulsion engine is used as a source of electrical power, a vessel speed change, throttle movement or change in direction of the propeller shaft rotation must not interrupt power to any of the loads specified in paragraph (a)(1) of this section.

§ 120.312 Power sources on vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers.

A vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers must have:
(a) Two generator sets;
(b) An electrical power system which complies with the requirements of §§ 111.10–4, 111.10–5, 111.10–9, 111.10–11 of this chapter; and
(c) A final emergency power source, as defined by § 112.01–20 of this chapter, with sufficient capacity to power the loads listed in § 112.15–5 of this chapter.

§ 120.320 Generators and motors.

(a) Each generator and motor must be:
(1) In a location that is accessible, adequately ventilated, and as dry as practicable; and
(2) Mounted above the bilges to avoid damage by splash and to avoid contact with low lying vapors.
(b) Each generator and motor must be designed for an ambient temperature of 50°C (122°F) except that:
(1) If the ambient temperature in the space where a generator or motor will be located will not exceed 40°C under normal operating conditions, the generator or motor may be designed for an ambient temperature of 40°C; and
(2) A generator or motor designed for 40°C may be used in 50°C ambient locations provided the generator or motor is derated to 80 percent of the full load rating, and the rating or setting of the overcurrent devices is reduced accordingly.
(c) A voltmeter and an ammeter, which can be used for measuring voltage and current of a generator that is in operation, must be provided for a generator rated at 50 volts or more. For each alternating current generator, a means for measuring frequency must also be provided. Additional control equipment and measuring instruments must be provided, if needed, to ensure satisfactory operation of each generator.
(d) Each generator must have a nameplate attached to it containing the information required by Article 445 of the NEC (NFPA 70), and for a generator derated in accordance with paragraph (b)(2) of this section, the derated capacity.
(e) Each motor must have a nameplate attached to it containing the information required by Article 430 of the NEC (NFPA 70), and for a motor derated in accordance with paragraph (b)(2) of this section, the derated capacity.

§ 120.322 Multiple generators.

When a vessel is equipped with two or more generators to supply ship's service power, the following requirements must be met:
(a) Each generator must have an independent prime mover; and
(b) The generator circuit breakers must be interlocked to prevent the generators from being simultaneously connected to the switchboard, except for the circuit breakers of a generator operated in parallel with another generator when the installation meets §§ 111.05–13, 111.12–11(f), 111.30–19(a), and 111.30–25(d) of this chapter.

§ 120.324 Dual voltage generators.

When a dual voltage generator is installed on a vessel:
(a) The neutral of a dual voltage system must be solidly grounded at the switchboard's neutral bus and be accessible for checking the insulation resistance of the generator to ground before the generator is connected to the bus; and
(b) Ground detection must be provided that:
(1) For an alternating current system, meets § 111.05–27 of this chapter; and
(2) For a direct current system, meets § 111.05–29 of this chapter.

§ 120.330 Distribution panels and switchboards.

(a) Each distribution panel and switchboard must be in as dry a location as practicable, accessible, adequately ventilated, and protected from falling debris and dripping or splashing water.
(b) Each distribution panel or switchboard must be totally enclosed and of the dead front type.
(c) Each switchboard must have nonconductive handrails.
(d) Each switchboard must be fitted with a dripshield.
(e) Distribution panels and switchboards which are accessible from the rear must be constructed to prevent a person from accidentally contacting energized parts.
(f) Working space must be provided around all main distribution panels and switchboards of at least 24 inches in front of the switchboard, and behind the switchboard at least 18 inches from the nearest bulkhead, stiffener, or frame, or have no rear access.

(g) Nonconducting mats or grating must be provided on the deck in front of each switchboard and, if accessible from the rear, on the deck in the rear of the switchboard.

(h) All uninsulated current carrying parts must be mounted on noncombustible, nonabsorbent, high dielectric insulating material.

(i) Equipment mounted on a hinged door of an enclosure must be constructed or shielded so that a person will not accidentally contact energized parts of the door mounted equipment when the door is open and the circuit energized.

(j) In the design of a control, interlock, or indicator circuit, all practicable steps must be taken to eliminate all but one source of potential in an enclosure. If the control functions make it impracticable to energize the control, interlock or indicator circuit from the load side of a motor and control disconnect device, each conductor of such a circuit, except those vital circuits identified in § 119.710 of this subchapter, must be disconnected from all sources of potential by a disconnect device actuated by the opening of the controller door. The disconnect device and its connections, including each terminal block for terminating the vessel's wiring, must not have any electrically unshielded or uninsulated surfaces.

(k) Switchboards and distribution panels must be adequately sized for the expected loads.

§ 120.340 Cable and wiring requirements.

(a) If individual wires, rather than cables, are used in systems greater than 50 volts, the wire must be run in a protective enclosure. The protective enclosure must have drain holes to prevent the build up of condensation.

(b) All cable and wire must:

(1) Have stranded copper conductors with sufficient current carrying capacity for the circuit in which they are used;

(2) Be installed in a manner to avoid or reduce interference with radio reception and compass indication;

(3) Be protected from the weather;

(4) Be installed with metal supports spaced not more than 24 inches apart, and in such a manner as to avoid chafing and other damage. The use of plastic tie wraps must be limited to bundling or retention of multiple cable installations, and not used as a means of support;

(5) Not be installed with sharp bends;

(6) Be protected by metal coverings or other suitable means if in areas subject to mechanical abuse;

(7) Be suitable for low temperature and high humidity if installed in refrigerated compartments;

(8) Not be located in a tank unless the cable provides power to equipment in the tank; and

(9) Have sheathing or wire insulation compatible with the fluid in a tank when installed as allowed by paragraph (b)(8) of this section.

(c) Conductors in power and lighting circuits must be No. 14 AWG or larger. Conductors in control and indicator circuits must be No. 22 AWG or larger.

(d) Cable and wire for power and lighting circuits must:

(1) Meet Section 310–13 of the NEC (NFPA 70) except that asbestos insulated cable and dry location cables can not be used;

(2) Be listed by Underwriters Laboratories Inc. as UL Boat or UL Marine cable; or

(3) Meet § 111.60–1 of this chapter.

(e) Cable or wire serving vital systems listed in § 119.710 of this subchapter or emergency loads must be routed as far as practicable from high risk fire areas such as galleys, laundries, and machinery spaces.

(f) Cable or wire serving duplicated equipment must be separated so that a casualty that affects one cable does not affect the other.

(g) Each connection to a conductor or terminal part of a conductor that is larger than No. 10 AWG must be made within an enclosure and have:

(1) A pressure type connector on each conductor;

(2) A solder lug on each conductor;

(3) A splice made with a pressure type connector to a flexible lead or conductor; or

(4) A splice that is soldered, brazed, or welded to a flexible lead or conductor.

(h) Each connection to a conductor or a terminal part of a conductor that is No. 10 AWG or smaller must be made within an enclosure and:

(1) Meet paragraph (g) of this section; or

(2) Have clamps or screws with terminal plates that have turned lugs or other suitable means to capture the terminal.

(i) A connector or lug of the set screw type must not be used with a stranded conductor smaller than No. 14 AWG except if there is a nonrotating follower that travels with the set screw and makes pressure contact with the conductor.

(j) Each pressure type wire connector and lug must meet UL 486A. The use of wire nuts is prohibited.

(k) Each terminal block must have 6–32 terminal screws or larger.

(l) Wire connectors utilized in conjunction with screw type terminal blocks must be of the captive type such as the ring or the flanged spade type.

(m) A cable must not be spliced in:

(1) A hazardous location; or

(2) In another location except:

(i) A cable installed in a subassembly may be spliced to a cable installed in another subassembly;

(ii) For a vessel receiving alterations, a cable may be spliced to extend a circuit;

(iii) A cable having a large size or exceptional length may be spliced to facilitate its installation; and

(iv) A cable may be spliced to replace a damaged section of the cable if, before replacing the damaged section, the insulation resistance of the remainder of the cable is measured, and it is determined that the condition of the insulation is unimpaired.

(n) All material in a cable splice must be chemically compatible with all other material in the splice and with the materials in the cable.

(o) Ampacities for conductors must meet Section 310–15 of the NEC (NFPA 70) or IEEE Standard 45, as appropriate.

(p) Conductors must be sized so that the voltage drop at the load terminals does not exceed 10 percent. Table 120.340(p) indicates the size of conductor required for corresponding lengths and steady state (stable) values to obtain not more than this voltage drop at the load terminals of a two conductor circuit.

TABLE 120.340(P).—CONDUCTOR SIZES FOR AMPERES—LENGTHS

Total current on circuit, amperes	Length of conductor in feet from source of current to most distant fixture [12 volts, 2-wire—10 percent drop wire sizes (A.W.G.)]										
	10	15	20	25	30	35	40	45	50	55	60
5	14	14	14	14	14	14	14	14	12	12	12
10	14	14	14	12	12	12	10	10	10	10	8
15	14	14	12	10	10	10	8	8	8	8	8

TABLE 120.340(P).—CONDUCTOR SIZES FOR AMPERES—LENGTHS—Continued

Total current on circuit, amperes	Length of conductor in feet from source of current to most distant fixture [12 volts, 2-wire—10 percent drop wire sizes (A.W.G.)]										
	10	15	20	25	30	35	40	45	50	55	60
20	12	12	10	10	8	8	8	8	6	6	6
25	10	10	10	8	8	8	6	6	6	6	4

Other values can be computed by means of the following formula:

$$cm = \frac{K \times I \times L(\times 2 \text{ for two-wire circuit})}{E} \quad (1)$$

Where:

cm = Circular-mil area of conductor

K = 10.75 (a constant representing the mil-foot resistance of copper).

I = Load current, in amperes.

L = Length of conductor from center of distibution, in feet.

E = Voltage drop at load, in volts.

(q) If used, each armored cable metallic covering must:

(1) Be electrically continuous; and

(2) Be grounded at each end of the run to:

(i) The metallic hull; or

(ii) The common ground plate on nonmetallic vessels; and

(3) Have final sub-circuits grounded at the supply end only.

(r) A portable or temporary electric cord or cable must be constructed and used in compliance with the requirements of § 111.60–13 of this chapter for a flexible electric cord or cable.

§ 120.350 Batteries—general.

(a) Where provisions are made for charging batteries, there must be natural or induced ventilation sufficient to dissipate the gases generated.

(b) Each battery must be located as high above the bilge as practicable, secured to protect against shifting with the roll and pitch of the vessel, and free from exposure to water splash or spray.

(c) Batteries must be accessible for maintenance and removal.

(d) Connections must be made to battery terminals with permanent type connectors. Spring clips or other temporary type clamps are prohibited.

(e) Batteries must be mounted in trays lined with, or constructed of, a material which is resistant to damage by the electrolyte.

(f) Battery chargers must have an ammeter connected in the charging circuit.

(g) If the batteries are not adjacent to a distribution panel or switchboard which distributes power to the lighting, motor, and appliance circuits, the battery lead must have a fuse in series, located as close as practicable to the battery.

(h) Batteries used for engine starting are to be located as close as possible to the engine or engines served.

§ 120.352 Battery categories.

This section applies to batteries installed to meet the requirements of § 120.310 for secondary sources of power to vital loads, or sources of power to final emergency loads.

(a) *Large.* A large battery installation is one connected to a battery charger having an output of more than 2 kw, computed from the highest possible charging current and the rated voltage of the battery installation.

(b) *Small.* A small battery installation is one connected to a battery charger having an output of 2 kw or less, computed from the highest possible charging current and the rated voltage of the battery installation.

§ 120.354 Battery installations.

(a) *Large batteries.* Each large battery installation must be located in a locker, room or enclosed box solely dedicated to the storage of batteries. Ventilation must be provided in accordance with § 111.15–10 of this chapter. Electrical equipment located within the battery enclosure must be approved by an independent laboratory for Class I, Division 1, Group B hazardous locations and meet part 111, subpart 111.105 of this chapter.

(b) *Small batteries.* Each small battery installation must be located in a well ventilated space and protected from falling objects. A small battery installation must not be in a closet, storeroom, or similar space.

§ 120.360 Semiconductor rectifier systems.

(a) Each semiconductor rectifier system must have an adequate heat removal system that prevents overheating.

(b) Where a semiconductor rectifier system is used in a propulsion system or in other vital systems it must:

(1) Have a current limiting circuit;

(2) Have external overcurrent protection; and

(3) Meet Sections 35.84.2 and 35.84.4 of the ABS "Rules for Building and Classing Steel Vessels."

§ 120.370 System and equipment grounding.

(a) All metallic enclosures and frames of electrical equipment must be permanently grounded to the hull on a metallic vessel. On a nonmetallic vessel the enclosures and frames of electrical equipment must be bonded together to a common ground by a normally non-current carrying conductor. Metallic cases of instruments and secondary windings of instrument transformers must be grounded.

(b) If a grounded distribution system is provided, there must be only one connection to ground, regardless of the number of power sources. This ground connection must be at the switchboard or at the common ground plate, which must be accessible.

(c) Each propulsion, power, lighting, or distribution system having a neutral bus or conductor must have the neutral grounded.

(d) The neutral of each grounded generation and distribution system must be grounded at the generator switchboard and have the ground connection accessible for checking

insulation resistance of the generator to ground before the generator is connected to the bus, except the neutral of an emergency power generation system must be grounded with:

(1) No direct ground connection at the emergency switchboard;

(2) The neutral bus permanently connected to the neutral bus on the main switchboard; and

(3) No switch, circuit breaker, or fuse in the neutral conductor of the bus-tie feeder connecting the emergency switchboard to the main switchboard.

(e) On a nonmetallic vessel where a ground plate is provided for radio equipment, it must be connected to the common ground.

(f) On a metallic vessel a grounded alternating current system must be grounded to the hull. On a nonmetallic vessel the neutral must be connected to the common ground, except that aluminum grounding conductors must not be used.

(g) Equipment grounding conductors must be sized in accordance with Section 250–95 of the NEC (NFPA 70).

(h) Each insulated grounding conductor of a cable must be identified by one of the following means:

(1) A green braid or green insulation;

(2) Stripping the insulation from the entire exposed length of the grounding conductor; or

(3) Marking the exposed insulation of the grounding conductor with green tape or green adhesive labels.

(i) A vessel's hull must not carry current as a conductor except for the following systems:

(1) Impressed current cathodic protection systems; or

(2) Battery systems for engine starting.

(j) Cable armor must not be used to ground electrical equipment or systems.

(k) Receptacle outlets and attachment plugs for portable lamps, tools, and similar apparatus operating at 100 volts or more, must have a grounding pole and a grounding conductor in the portable cord.

(l) Each nonmetallic mast and top mast must have a lightning ground conductor.

§ 120.380 Overcurrent protection.

(a) Overcurrent protection must be provided for each ungrounded conductor for the purpose of opening the electric circuit if the current reaches a value that causes an excessive or dangerous temperature in the conductor or conductor insulation.

(b) A conductor of a control, interlock, or indicator circuit, such as a conductor for an instrument, pilot light, ground detector light, or potential transformer, must be protected by an overcurrent device.

(c) Each generator must be protected by an overcurrent device set at a value not exceeding 115 per cent of the generator full load rating.

(d) All circuits other than steering system circuits must be protected against both overload and short circuit.

(e) Each steering gear feeder circuit must be protected by a circuit breaker that meets the requirements of paragraphs (a) and (b) of § 111.93–11 of this chapter.

(f) Each lighting branch circuit must be protected against overcurrent either by fuses or circuit breakers rated at not more than 30 amperes.

(g) Conductors must be protected in accordance with their current carrying capacities. If the allowable current carrying capacity does not correspond to a standard device size, the next larger overcurrent device may be used provided it does not exceed 150 per cent of the conductor current carrying capacity.

(h) Overcurrent devices capable of carrying the starting current of the motor must be installed to protect motors, motor conductors, and control apparatus against:

(1) Overcurrent due to short circuits or ground faults; and

(2) Overload due to motor running overcurrent, in accordance with § 111.70–1 of this chapter. A protective device integral with the motor, which is responsive to both motor current and temperature, may be used.

(i) An emergency switch must be provided in the normally ungrounded main supply conductor from a battery. The switch must be accessible and located as close to the battery as practicable.

(j) The grounded conductor of a circuit must not be disconnected by a switch or circuit breaker, unless the ungrounded conductors are simultaneously disconnected.

(k) Disconnect means must be provided on the supply side of and adjacent to all fuses for the purpose of de-energizing the fuses for inspection and maintenance purposes.

(l) If the disconnect means is not within sight of the equipment that the circuit supplies, means must be provided for locking the disconnect device in the open position.

(m) Fuses must be of the cartridge type only and be listed by Underwriters Laboratories or another independent laboratory recognized by the Commandant.

(n) Each circuit breaker must meet UL 489 and be of the manually reset type designed for:

(1) Inverse time delay;

(2) Instantaneous short circuit protection; and

(3) Switching duty if the breaker is used as a switch.

(o) Each circuit breaker must indicate whether it is in the open or closed position.

§ 120.390 Shore power.

A vessel with an electrical system operating at more than 50 volts, which is provided with a means to connect to shore power, must meet the following:

(a) A shore power connection box or receptacle must be permanently installed at a convenient location;

(b) A cable connecting the shore power connection box or receptacle to the switchboard or main distribution panel must be permanently installed;

(c) A circuit breaker must be provided at the switchboard or main distribution panel for the shore power connection; and

(d) The circuit breaker, required by paragraph (c) of this section, must be interlocked with the vessel's power sources so that shore power and the vessel's power sources may not be operated simultaneously.

§ 120.392 Radiotelephone installations.

A separate circuit, with overcurrent protection at the main distribution panel, must be provided for each radiotelephone installation.

Subpart D—Lighting Systems

§ 120.410 Lighting fixtures.

(a) Each lighting fixture globe, lens, or diffuser must have a guard or be made of high strength material, except in an accommodation space, radio room, galley, or similar space where it is not subject to damage.

(b) A lighting fixture may not be used as a connection box for a circuit other than the branch circuit supplying the fixture.

(c) A lighting fixture must be installed as follows:

(1) Each fixture must comply with § 120.200.

(2) Each lighting fixture and lampholder must be fixed. A fixture must not be supported by the screw shell of a lampholder.

(3) Each pendant type lighting fixture must be suspended by and supplied through a threaded, rigid conduit stem.

(4) Each table lamp, desk lamp, floor lamp, or similar equipment must be secured in place so that it cannot be displaced by the roll or pitch of the vessel.

(d) An exterior lighting fixture in an electrical system operating at more than 50 volts must comply with the

requirements of UL 595. A lighting fixture in an accommodation space, radio room, galley or similar interior space may comply with UL 57, 1570, 1571, 1572, 1573, or 1574.

§ 120.420 Navigation lights.

All vessels must have navigation lights that are in compliance with the applicable sections of the International and Inland Navigation Rules, except that a vessel of more than 65 feet in length must also have navigation lights that meet UL 1104.

§ 120.430 Portable lights.

Each vessel must be equipped with at least two portable battery lights. One of these lights must be located at the operating station and the other at the access to the propulsion machinery space.

§ 120.432 Emergency lighting.

(a) Each vessel must have adequate emergency lighting fitted along the line of escape to the main deck from all passenger and crew accommodation spaces located below the main deck.

(b) The emergency lighting required by paragraph (a) of this section must automatically actuate upon failure of the main lighting system. If a vessel is not equipped with a single source of power for emergency lighting, it must have individual battery powered lights which:

(1) Are automatically actuated upon loss of normal power;

(2) Are not readily portable;

(3) Are connected to an automatic battery charger; and

(4) Have sufficient capacity for a minimum of 6 hours of continuous operation.

(c) A vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers must have an emergency lighting system which complies with part 112 of this chapter.

§ 120.434 Lifeboat and liferaft floodlights on vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers.

Each vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers must have floodlights for illuminating the stowage position and embarkation station of lifeboats, liferafts, rescue boats, and rescue platforms, where installed. These floodlights must meet the requirements of § 111.75–16 of this chapter.

Subpart E—Miscellaneous Systems and Requirements

§ 120.520 Lifeboat winches.

Each electric power operated lifeboat winch must meet part 111, subpart 111.95 and part 160, subpart 160.015 of this chapter.

§ 120.530 Hazardous areas.

(a) Electrical equipment in lockers used to store paint, oil, turpentine, or other flammable liquids must be explosion-proof or be part of an intrinsically safe system.

(b) Explosion-proof equipment and intrinsically safe systems must meet the requirements of part 111, subpart 111.105 of this chapter.

§ 120.540 Elevators.

Each electric power, control, and interlock circuit of an elevator on a vessel must meet the requirements of ANSI A17.1.

§ 120.550 General alarm systems.

(a) All vessels with overnight accommodations must be equipped with a general alarm system.

(b) A vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers must have a general alarm which meets the requirements of part 113, subpart 113.25 of this chapter.

(c) The public address system required by § 121.610 of this subchapter may be used to sound the general alarm signal.

PART 121—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

Subpart A—General Provisions

Sec

121.100 General requirement.
121.115 Applicability to existing vessels.

Subpart B—Cooking and Heating

121.200 General.
121.202 Restrictions.
121.210 Heating Equipment.
121.220 Cooking Equipment.
121.240 Gas Systems.

Subpart C—Mooring and Towing Equipment

121.300 Ground tackle and mooring lines.

Subpart D—Navigation Equipment

121.402 Compasses.
121.404 Radars.
121.410 Electronic position fixing devices.
121.420 Charts and nautical publications.

Subpart E—Radio

121.502 Requirements of the Federal Communications Commission.
121.506 Emergency broadcast placard.

Subpart F—Control and Internal Communication Systems

121.602 Internal communication systems.
121.610 Public address systems.
121.620 Propulsion engine control systems.

Subpart G—Miscellaneous

121.702 Oil pollution prevention equipment and procedures.
121.704 Marine sanitation devices.
121.710 First aid kits.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 121.100 General requirement.

(a) Vessel control systems and other miscellaneous systems and equipment required by this part must be suitable for the purposes intended.

(b) The cognizant OCMI may require navigation, control, or communication equipment, in excess of the equipment specifically required by this part, on a vessel which is of a novel design, operates at high speeds in restricted or high traffic areas, operates in a dynamically supported mode, or operates on extended routes or in remote locations.

§ 121.115 Applicability to existing vessels.

(a) An existing vessel need not comply with §§ 121.402(c), 121.404, 121.410, and 121.602 unless the cognizant OCMI specifically requires compliance due to the route or service of the vessel.

(b) An existing vessel need not comply with the requirements of § 121.610 until [*date 5 years after effective date of the final rule*], or 10 years after its keel was laid or the vessel was at a similar stage of construction, whichever is later.

(c) An existing vessel need not comply with the requirements of § 121.710 until [*date 1 year after effective date of the final rule*].

Subpart B—Cooking and Heating

§ 121.200 General.

Cooking and heating equipment must be suitable for marine use. Equipment designed and installed in accordance with ABYC A–3 and A–7, or with NFPA 302 complies with this requirement, except as restricted by § 121.202.

§ 121.202 Restrictions.

(a) The use of gasoline for cooking, heating, or lighting is prohibited on all vessels.

(b) Fireplaces or other heating and cooking equipment with open flames are prohibited from being used on all vessels.

(c) Vessels permitted to use liquefied and non-liquefied gases as cooking fuels by 46 CFR part 147 must meet the requirements of § 121.240. The use of these fuels for cooking, heating, and lighting on ferry vessels is prohibited by 46 CFR part 147.

§ 121.210 Heating equipment.

(a) Each heater must be so constructed and installed as to prevent the hanging from it of items such as towels and clothing.

(b) Each electric space heater must be provided with a thermal cutout to prevent overheating.

(c) Each heater element of an electric space heater must be of an enclosed type, and the element case or jacket must be made of a corrosion resistant material.

§ 121.220 Cooking equipment.

(a) Doors on a cooking appliance must be provided with heavy duty hinges and locking devices to prevent accidental opening in heavy seas.

(b) A cooking appliance must be installed to prevent movement in heavy seas.

(c) For a grill or similar type of cooking appliance, means must be provided to collect grease or fat and to prevent its spillage on wiring or the deck.

(d) Grab rails must be installed on a cooking appliance when determined by the cognizant OCMI to be necessary for safety.

(e) Sea rails, with suitable barriers to prevent accidental movement of cooking pots, must be installed on a cooking range.

(f) Electric connections for a cooking appliance must be dripproof.

§ 121.240 Gas systems.

[Reserved for final rules which have been developed under Coast Guard Docket 83–013, Carriage and Use of Liquefied and Non-liquefied Gas as Cooking Fuels on Vessels Carrying Passengers, and which will be inserted in this section.]

Subpart C—Mooring and Towing Equipment

§ 121.300 Ground tackle and mooring lines.

A vessel must be fitted with ground tackle and mooring lines necessary for the vessel to be safely anchored and moored. The ground tackle and mooring lines provided must be satisfactory for the size of the vessel, the waters on which the vessel operates, and other operating hazards, subject to the approval of the cognizant OCMI.

Subpart D—Navigation Equipment

§ 121.402 Compasses.

(a) Except as otherwise provided in this section every vessel must be fitted with a suitable magnetic compass designed for marine use, to be mounted at the primary operating station.

(b) The following vessels need not be fitted with a compass:

(1) A vessel on a rivers route;

(2) A non-self-propelled vessel; and

(3) A vessel operating on short restricted routes on lakes, bays, and sounds.

(c) Except on a vessel limited to daytime operations, the compass must be illuminated.

§ 121.404 Radars.

(a) The following self-propelled vessels must be fitted with a FCC type accepted general marine radar system for surface navigation with a radar screen mounted at the primary operating station:

(1) A vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers; and

(2) A ferry which operates on a rivers route not within one mile of land.

(3) Any other vessel, except a vessel operated on a short restricted route when the cognizant OCMI has determined that a radar is not necessary due to the vessel's route and local weather conditions.

(b) The radar and its installation must be suitable for the intended speed and route of the vessel.

§ 121.410 Electronic position fixing devices.

A vessel on an oceans route must be equipped with an electronic position fixing device, capable of providing accurate fixes for the area in which the vessel operates, to the satisfaction of the cognizant OCMI.

§ 121.420 Charts and nautical publications.

(a) As appropriate for the intended voyage, a vessel must carry adequate and up-to-date:

(1) Charts of large enough scale to make safe navigation possible;

(2) U.S. Coast Pilot or similar publication;

(3) Coast Guard Light List;

(4) Tide tables published by the National Ocean Service; and

(5) Current tables published by the National Ocean Service, or a river current publication issued by the U.S. Army Corps of Engineers or a river authority.

(b) Extracts from the publications listed in paragraph (a) of this section for the areas to be transited may be provided instead of the complete publication.

Subpart E—Radio

§ 121.502 Requirements of the Federal Communications Commission.

A vessel must comply with the applicable requirements for any radio and EPIRB installations, including the requirements for a station license and installation certificates to be issued by the Federal Communications Commission, as set forth in 47 CFR part 80.

§ 121.506 Emergency broadcast placard.

A durable placard must be posted next to all radiotelephone installations with the following instructions and information, specific to the individual vessel, indicated on it:

Emergency Broadcast Procedures

(1) Make sure your radiotelephone is on.

(2) Select 156.8 mHz (channel 16 VHF) or 2182 kHz. (Channel 16 VHF and 2182 kHz on SSB are for emergency and calling purposes only.)

(3) Press microphone button and, speaking slowly—clearly—calmly, say: "MAYDAY—MAYDAY—MAYDAY"

for situations involving Immediate Danger to Life and Property; and "PAN—PAN—PAN"

for urgent situations where there is No Immediate Danger to Life or Property.

(4) Say: "THIS IS (VESSEL'S NAME), (VESSEL'S NAME), (VESSEL'S NAME), (VESSEL'S CALL SIGN), OVER."

(5) Release the microphone button briefly and listen for acknowledgment. If no one answers, repeat steps 3 & 4.

(6) If there is no acknowledgment, or if the Coast Guard or another vessel responds, say: "MAYDAY" or "PAN", (VESSEL'S NAME)."

(7) Describe Your Position using latitude and longitude coordinates, LORAN coordinates, or range and bearing from a known point.

(8) State The Nature of The Distress.

(9) Give Number Of Persons Aboard And The Nature Of Any Injuries.

(10) Estimate the Present Seaworthiness of Your Vessel.

(11) Briefly Describe Your Vessel: (Length, Color, Hull Type, Trim, Masts, Power, any Additional Distinguishing Features).

(12) Say: "I Will Be Listening on Channel 16/2182."

(13) End message by saying: "THIS IS (VESSEL'S NAME & CALL SIGN)."

(14) If your situation permits, stand by the radio to await further communication with the Coast Guard or another vessel. If no answer, repeat, then try another channel.

Subpart F—Control and Internal Communication Systems

§ 121.602 Internal communication systems.

(a) A vessel equipped with pilothouse control must have a fixed means of two-way communication from the operating station to the location where the means of controlling the propulsion machinery, required by § 121.620(a), is located. Twin screw vessels with pilothouse control for both engines are not required to have a fixed communications system.

(b) A vessel equipped with auxiliary means of steering, required by § 119.620

of this subchapter, must have a fixed means of two-way communication from the operating station to the location where the auxiliary means of steering is controlled.

(c) When the propulsion machinery of a vessel cannot be controlled from the operating station, an efficient communication system must be provided between the operating station and the propulsion machinery space.

(d) When the locations addressed in paragraphs (a), (b), and (c) of this section are sufficiently close together, direct voice communication satisfactory to the cognizant OCMI is acceptable instead of the required fixed means of communications.

(e) The OCMI may accept hand held portable radios as satisfying the communications system requirement of this section.

§ 121.610 Public address systems.

(a) Except as provided in paragraph (d) of this section, each vessel must be equipped with a public address system.

(b) On a vessel of more than 65 feet in length, the public address system must be a fixed installation and be audible during normal operating conditions throughout the accommodation spaces and all other spaces normally manned by crew members.

(c) A vessel with more than one passenger deck and a vessel with overnight accommodations must have the public address system operable from the operating station.

(d) On a vessel of not more than 65 feet in length, a battery powered bullhorn may serve as the public address system if audible throughout the accommodation spaces of the vessel during normal operating conditions. The bullhorn's batteries are to be continually maintained at a fully charged level by use of a battery charger or other means acceptable to the cognizant OCMI.

§ 121.620 Propulsion engine control systems.

(a) A vessel must have two independent means of controlling each propulsion engine. Control must be provided for the engine speed, direction of shaft rotation, and engine shutdown.

(1) One of the means may be the ability to readily disconnect the remote engine control linkage to permit local operation.

(2) A multiple engine vessel with independent remote propulsion control for each engine need not have a second means of controlling each engine.

(b) In addition to the requirements of paragraph (a), a vessel must have a reliable means for shutting down a propulsion engine, which is independent of the engine's speed control, located at the main pilothouse control station.

(c) A propulsion engine control system, including pilothouse control, must be designed so that a loss of power to the control system does not result in an increase in shaft speed or propeller pitch.

Subpart G—Miscellaneous

§ 121.702 Oil pollution prevention equipment and procedures.

A vessel must comply with the applicable design, equipment, personnel, procedures, and record requirements of 33 CFR parts 151, 155, and 156.

§ 121.704 Marine sanitation devices.

A vessel with installed toilet facilities must have a marine sanitation device which complies with 33 CFR part 159.

§ 121.710 First aid kits.

A vessel must carry a first aid kit approved under part 160, subpart 160.041 of this chapter or a kit with equivalent contents, instructions, and markings. The contents must be stowed in a suitable container, easily visible and readily available to the crew.

PART 122—OPERATIONS

Subpart A—General Provisions

Sec.

122.100 General requirement.
122.115 Applicability to existing vessels.

Subpart B—Marine Casualties and Voyage Records

122.202 Notice of casualty.
122.204 Substance of marine casualty notice.
122.206 Written report of marine casualty.
122.208 Damage to pressure vessels.
122.210 Alcohol or drug use by individuals directly involved in casualties.
122.212 Mandatory chemical testing following serious marine incidents.
122.220 Records of a voyage resulting in a marine casualty.
122.230 Report of accident to aid to navigation.
122.250 Assistance required.
122.260 Reports of potential vessel casualty.
122.280 Official logbook for foreign voyages.
122.282 Logbook for vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers.

Subpart C—Miscellaneous Operating Requirements

122.304 Navigation underway.
122.306 Passengers excluded from operating station.
122.310 Compliance with provisions of Certificate of Inspection.
122.315 Verification of vessel compliance with applicable stability requirements.
122.320 Steering gear, controls, and communication system tests.
122.330 Hatches and other openings.
122.335 Loading doors.
122.340 Vessels carrying vehicles.
122.356 Carriage of hazardous materials.
122.360 Use of auto pilot.
122.370 Reckless or negligent operation.

Subpart D—Crew Requirements

122.402 Licenses.
122.410 Watchmen.
122.420 Crew training.

Subpart E—Preparations for Emergencies

122.502 Crew and passenger list, and voyage plan.
122.504 Passenger count.
122.506 Passenger safety orientation.
122.508 Wearing of lifejackets.
122.510 Emergency instructions.
122.512 Emergency instruction placard format.
122.514 Station bill.
122.515 Passenger safety bill.
122.516 Lifejacket placards.
122.518 Inflatable survival craft placards.
122.520 Abandon ship and man overboard drills and training.
122.524 Fire fighting drills and training.
122.530 Responsibilities of licensed individuals.

Subpart F—Markings Required

122.602 Hull markings.
122.604 Lifesaving equipment markings.
122.606 Escape hatches and emergency exits.
122.608 Fuel shutoff valves.
122.610 Watertight doors and watertight hatches.
122.612 Fire protection equipment.

Subpart G—Operational Readiness, Maintenance, and Inspection of Lifesaving Equipment

122.700 Operational readiness.
122.702 Maintenance.
122.704 Maintenance of falls.
122.720 Weekly maintenance and inspections.
122.722 Monthly inspections.
122.724 Quarterly inspections.
122.726 Annual inspections.
122.728 Testing and servicing of Emergency Position Indicating Radiobeacons (EPIRBs).
122.730 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable lifejackets, and inflated rescue boats.
122.740 Periodic servicing of hydrostatic release units.

Subpart H—Penalties

122.900 Penalty for violations.
122.910 Suspension and revocation.

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 122.100 General requirement.

A vessel must be operated in accordance with applicable laws and regulations and in such a manner as to afford adequate precaution against hazards which might endanger the vessel and the persons being transported.

§ 122.115 Applicability to existing vessels.

(a) An existing vessel need not comply with the hull marking requirements in § 122.602(b) until completion of a vessel's first drydock required by § 115.600 of this subchapter which occurs after [effective date of the final rule].

(b) An existing vessel need not comply with the marking requirements in §§ 122.604 and 122.610, where the size and contents of the markings required by §§ 122.604 and 122.610 vary from the size and contents of required markings on lifesaving equipment, watertight doors, and watertight hatches on the vessel prior to [effective date of the final rule], until the existing markings are no longer legible as determined by the cognizant OCMI.

(c) An existing vessel need not comply with the requirements of §§ 122.514, 122.515, 122.516, and 122.604(j) until completion of the first inspection for certification which occurs after [effective date of the final rule].

Subpart B—Marine Casualties and Voyage Records

§ 122.202 Notice of casualty.

(a) The owner, agent, master, or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) An accidental grounding, or an intentional grounding which meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function for any period of time.

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, failure of or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems.

(4) Loss of life.

(5) Injury which requires professional medical treatment beyond first aid and, in the case of a person engaged or employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties.

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000. Damage cost includes the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage.

(b) A vessel is excluded from the requirements of paragraphs (a)(4) and (a)(5) of this section with respect to the death or injury of shipyard or harbor workers when such accidents are not the result of either a vessel casualty (e.g., collision) or a vessel equipment casualty (e.g., cargo boom failure) and are subject to the reporting requirements of the Occupational Safety and Health Administration under 29 CFR part 1904.

§ 122.204 Substance of marine casualty notice.

The notice required in § 122.202 must include the name and official number (or the number issued in accordance with 33 CFR part 173) of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

§ 122.206 Written report of marine casualty.

(a) In addition to the notice required by § 122.202, the owner, master, agent, or person in charge of the vessel shall, within five days, report in writing to the OCMI at the port in which the casualty occurred or nearest the port of first arrival. The written report required for vessel or personnel accidents must be made on Form CG–2692.

(b) If filed without delay, the Form CG–2692 may also provide the notice required by § 122.202.

§ 122.208 Damage to pressure vessels.

The owner, managing operator, or master shall report damage to a boiler or unfired pressure vessel, which renders further use of the item unsafe until repairs are made, to the OCMI at the port in which the casualty occurred or nearest the port of first arrival, as soon as practicable after the damage occurs.

§ 122.210 Alcohol or drug use by individuals directly involved in casualties.

(a) For each marine casualty required to be reported by § 122.202, the owner, agent, master, or person in charge of the vessel shall determine whether there is any evidence of alcohol or drug use by individuals directly involved in the casualty.

(b) The owner, agent, master, or person in charge of the vessel shall include in the written report, Form CG 2692, submitted for the casualty information which:

(1) Identifies those individuals for whom evidence of drug or alcohol use, or evidence of intoxication, has been obtained; and

(2) Specifies the method used to obtain such evidence, such as personal observation of the individual, or by chemical testing of the individual.

(c) An entry must be made in the Official Logbook, if carried, pertaining to those individuals for whom evidence of intoxication is obtained. The individual must be informed of this entry and the entry must be witnessed by a second person.

(d) If an individual directly involved in a casualty refuses to submit to, or cooperate in, the administration of a timely chemical test, when directed by a Coast Guard commissioned, warrant, or petty officer, or any other law enforcement officer authorized to obtain a chemical test under Federal, state, or local law, or by the owner, agent, master, or person in charge, this fact must be noted in the Official Logbook, if carried, and in the written report (Form CG 2692), and will be admissible as evidence in any administrative proceeding.

§ 122.212 Mandatory chemical testing following serious marine incidents.

A marine employer whose vessel is involved in a casualty or incident which is, or is likely to become, a serious marine incident as defined in § 4.03–2 of this chapter shall comply with the requirements of part 4, subpart 4.06 of this chapter.

§ 122.220 Records of a voyage resulting in a marine casualty.

The owner, agent, master, or person in charge of any vessel involved in a marine casualty for which a report is required under § 122.202 shall retain all voyage records as are maintained by the vessel, including rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyrocompass records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and

received, radio logs, crew and passenger lists and counts, articles of shipment, official logs, and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer, or person responsible for the custody thereof, shall make these records available upon request, to a duly authorized investigating officer, administrative law judge, officer or employee of the Coast Guard.

§ 122.230 Report of accident to aid to navigation.

Whenever a vessel collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, the person in charge of such vessel shall report the accident to the nearest OCMI. No report on Form CG 2692 is required unless otherwise required under § 122.202.

§ 122.250 Assistance required.

(a) The master of a vessel involved in a collision, accident, or other casualty, shall render all practicable and necessary assistance to persons affected by the collision, accident, or casualty to the extent possible without serious danger to his or her own vessel or persons aboard. The master shall also give his or her name, address, and the identification of his or her vessel to any person injured and to the owner of any property damaged.

(b) The master of a vessel shall render assistance to any individual found at sea in danger of being lost, so far as the master can do so without seriously endangering the master's vessel or individuals on board.

§ 122.260 Reports of potential vessel casualty.

(a) An owner, charterer, managing operator, or agent of a vessel shall immediately notify either of the following Coast Guard offices if there is reason to believe the vessel is lost or imperiled:

(1) The Coast Guard district rescue coordination center (RCC) cognizant over the area in which the vessel was last operating; or

(2) The Coast Guard search and rescue authority nearest to where the vessel was last operating.

(b) Reasons for belief that a vessel is in distress include, but are not limited to, lack of communication with or nonappearance of the vessel.

(c) The owner, charterer, managing operator, or agent notifying the Coast Guard under paragraph (a) of this section, shall:

(1) Provide the name and identification number of the vessel, a description of the vessel, the names or number of individuals on board, and other information that may be requested by the Coast Guard; and

(2) Submit written confirmation within 24 hours to the Coast Guard facility to which notice was given of the possibility of the vessel being in distress, unless the original notice was in writing.

§ 122.280 Official Logbook for foreign voyages.

(a) Every vessel on a voyage from a port in the United States to a foreign port except to a port in Canada, or vice versa, must have an Official Logbook.

(b) The master shall make or have made in the Official Logbook the following entries:

(1) Each legal conviction of a seaman of the vessel and the punishment inflicted;

(2) Each offense committed by a seaman of the vessel for which it is intended to prosecute or to enforce under a forfeiture, together with statements about reading the entry and the reply made to the charge as required by 46 U.S.C. 11502;

(3) Each offense for which punishment is inflicted on board and the punishment inflicted;

(4) A statement of the conduct, character, and qualifications of each seaman of the vessel or a statement that the master declines to give an opinion about that conduct, character, and qualifications;

(5) Each illness of or injury to a seaman of the vessel, the nature of the illness or injury, and the medical treatment;

(6) Each death on board, with the cause of death, and if a seaman, the following information required by 46 U.S.C. 10702;

(i) The wages due to a seaman who dies during the voyage and the gross amount of all deductions to be made from the wages;

(ii) The sale of the property of a seaman who dies during the voyage, including a statement of each article sold and the amount received for the property;

(7) Each birth on board, with the sex of the infant and name of the parents;

(8) Each marriage on board, with the names and ages of the parties;

(9) The name of each seaman who ceases to be a crew member (except by death), with the place, time, manner, and the cause why the seaman ceased to be a crew member; and

(10) When a marine casualty occurs, a statement about the casualty and the circumstances under which it occurred, made immediately after the casualty when practicable to do so.

§ 122.282 Logbook for vessels of more than 65 feet in length with overnight accommodations for more than 49 passengers.

Except for a vessel required to have an Official Logbook by § 122.280, the owner, managing operator, or master of a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers shall supply logs or records in any form, which will be considered to take the place of the Official Logbook and may be used for the purpose of making entries therein as required by law or regulations in this subchapter. Such logs or records shall be kept available for review by a marine inspector for a period of one year after the date to which the records refer.

Subpart C—Miscellaneous Operating Requirements

§ 122.304 Navigation underway.

(a) The master of a vessel underway shall ensure that:

(1) The movement of the vessel is under the direction and control of the master or a licensed mate at all times;

(2) The individual who directs and controls the movement of the vessel is competent to perform that duty and, when necessary, knows:

(i) The magnetic variation of the area being transited, the vessel's deviation (if known), and the gyrocompass error (if the vessel is so equipped);

(ii) The current velocity and direction of the area being transited;

(iii) The predicted set and drift for the area being transited; and

(iv) The tidal state for the area being transited;

(3) If a pilot other than a member of the vessel's crew is employed, the pilot is informed of the draft, maneuvering characteristics, and peculiarities of the vessel and of any abnormal circumstances on the vessel that may affect its safe navigation; and

(4) The equipment required by this part is maintained in operable condition.

(b) The individual directing the movement of the vessel shall:

(1) Ensure that an individual whom the master has determined is competent to steer the vessel is at the helm of the vessel at all times;

(2) Set the vessel's speed with consideration for:

(i) The prevailing visibility and weather conditions;

(ii) The proximity of the vessel to fixed shore and marine structures;

(iii) The comparative proportions of the vessel and the channel;

(iv) The density of marine traffic;

(v) The damage that might be caused by the vessel's wake;

(vi) The strength and direction of the current; and

(vii) Any local vessel speed limit;

(3) Ensure that rudder orders are executed as given;

(4) Ensure that engine speed and direction orders are executed as given;

(5) Correctly apply magnetic variation, and deviation and gyrocompass errors when applicable; and

(6) Evaluate the danger of each closing visual or each closing radar contact.

(c) The master of a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers shall, in addition to the requirements of paragraph (a) of this section, ensure that:

(1) The individual directing and controlling the movement of the vessel periodically fixes or has another competent individual fix the vessel's position as necessary for the voyage;

(2) The position of the vessel at each fix is plotted on an adequate chart of the area and the individual directing the movement of the vessel is informed of the vessel's position;

(3) Electronic and other navigational equipment, external fixed aids to navigation, geographic reference points, and hydrographic contours are used when fixing the vessel's position;

(4) Buoys alone are not used to fix the vessel's position; and

(5) The vessel's anchors are ready for letting go when navigating in a congested area or a narrow channel.

§ 122.306 Passengers excluded from operating station.

(a) When practicable, the master shall exclude passengers, other than those listed in paragraph (b) of this section, from an operating station of the vessel when the vessel is underway in congested waters, heavy weather, reduced visibility, where crossing or overtaking crossing situations may be expected, docking and locking operations, or other situations and emergencies where the passengers could distract the navigating crew from their responsibilities, or when otherwise directed by the cognizant OCMI.

(b) Persons involved in the safety of the vessel or passengers training in vessel navigation and operations may be allowed in the operating station as authorized by the master.

§ 122.310 Compliance with provisions of Certificate of Inspection.

The master of a vessel shall ensure that all of the provisions of the Certificate of Inspection are strictly adhered to; however, the master may divert from the route prescribed in the Certificate of Inspection or take such other steps as deemed necessary and prudent to assist vessels in distress or for other similar emergencies.

§ 122.315 Verification of vessel compliance with applicable stability requirements.

(a) After loading and prior to departure and at all other times necessary to assure the safety of the vessel, the master shall determine that the vessel complies with all applicable stability requirements in the vessel's trim and stability book, stability letter, Certificate of Inspection, and Load Line Certificate, as the case may be. The vessel may not depart until it is in compliance with these requirements.

(b) When determining compliance with applicable stability requirements the vessel's draft, trim, and stability must be determined as necessary and any stability calculations made in support of the determination must be retained on board the vessel for the duration of the voyage.

(c) If a log book is required, then the master must enter an attestation statement verifying that the vessel complies with the applicable stability requirements at the times specified in paragraph (a) of this section.

§ 122.320 Steering gear, controls, and communication system tests.

The master of a vessel shall have examined and tested the steering gear, signaling whistle, propulsion controls, and communication systems of the vessel within 12 hours of getting underway for a voyage, except that such examination and testing need not be conducted more than once in any 24 hour period.

§ 122.330 Hatches and other openings.

(a) Except when operating on lakes, bays, and sounds, or river routes in calm weather, all hatches and openings in the hull of a vessel must be kept tightly closed except when being used.

(b) All watertight doors in subdivision bulkheads must be kept tightly closed during the navigation of the vessel except when being used for transit between compartments.

§ 122.335 Loading doors.

(a) The master of a vessel fitted with loading doors shall assure that all loading doors are closed watertight and secured during the entire voyage except that—

(1) If a door cannot be opened or closed while the vessel is at a dock, it may be open while the vessel approaches and draws away from the dock, but only as far as necessary to enable the door to be immediately operated.

(2) If needed to operate the vessel, or embark and disembark passengers when the vessel is at anchor in protected waters, loading doors may be open provided that the master determines that the safety of the vessel is not impaired.

(b) For the purpose of this section, "loading doors" include all weathertight ramps, bow visors, and openings used to load personnel, equipment, and stores, in the collision bulkhead, the side shell, and the boundaries of enclosed superstructures that are continuous with the shell of the vessel.

(c) If a log book is required, then the master shall make the following entries:

(1) The time and door location of every closing of the loading doors; and

(2) Any opening of the doors in accordance with paragraph (a) (2) of this section setting forth the time of the opening of the doors and the circumstances warranting this action.

§ 122.340 Vessels carrying vehicles.

(a) Automobiles or other vehicles must be stowed in such a manner as to permit both passengers and crew to get out and away from the vehicles freely in the event of fire or other disaster. The decks, where necessary, must be distinctly marked with painted lines to indicate the vehicle runways and the aisle spaces.

(b) The master shall take any necessary precautions to see that automobiles or other vehicles have their motors turned off and their emergency brakes set when the vessel is underway, and that the motors are not started until the vessel is secured to the landing. In addition, a vehicle at each end of a line of vehicles or next to a loading ramp must have its wheels securely blocked, while the vessel is being navigated.

(c) The master shall have appropriate "NO SMOKING" signs posted and shall take all necessary precautions to prevent smoking or carrying of lighted or smoldering pipes, cigars, cigarettes, or similar items in the deck area assigned to automobiles or other vehicles.

(d) The master shall, prior to getting underway, ensure that vehicles are properly distributed consistent with the guidance in the vessel's stability letter and Certificate of Inspection, if applicable.

§ 122.356 Carriage of hazardous materials.

A vessel must not be used to transport a hazardous material, listed in 49 CFR 172.101, in commerce unless that material is handled and transported in accordance with 49 CFR Parts 171 through 179.

§ 122.360 Use of auto pilot.

Whenever an automatic pilot is used the master shall ensure that:

(a) It is possible to immediately establish manual control of the vessel's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the master or the mate on watch.

§ 122.370 Reckless or negligent operation.

(a) A person shall not operate a vessel subject to the provisions of this subchapter in a negligent manner which endangers the life, limb, or property of any person. Violations of this section involving grossly negligent operation subject the violator, in addition to any other penalties, to the criminal penalties prescribed in 46 U.S.C. 2302.

(b) The master of a vessel subject to the provisions of this subchapter shall not get the vessel underway, nor shall the owner, charterer, or managing operator of the vessel permit the master to get the vessel underway, when any passengers are aboard and the vessel is in an unseaworthy condition or weather or sea conditions make vessel operation unsafe.

Subpart D—Crew Requirements

§ 122.402 Licenses.

Each licensed individual employed upon any vessel subject to the provisions of this subchapter shall have his or her license on board and available for examination at all times when the vessel is operating.

§ 122.410 Watchmen.

The owner, charterer, master, or managing operator of a vessel carrying passengers shall have a suitable number of watchmen patrol throughout the vessel during the nighttime, whether or not the vessel is underway, to guard against, and give alarm in case of, a fire or other danger.

§ 122.420 Crew training.

The owner, charterer, master, or managing operator shall instruct each crewmember, upon first being employed and prior to getting underway for the first time on a particular vessel and at least once every two months, as to the duties that the crew member is expected to perform in an emergency including, but not limited to, the emergency instructions listed on the emergency instruction placard required by § 122.510 and, when applicable, the duties listed in the station bill required by § 122.514.

Subpart E—Preparations for Emergencies

§ 122.502 Crew and passenger list, and voyage plan.

(a) The owner, charterer, managing operator, or master of the following vessels must keep a correct list of the names of all persons which embark on and disembark from the vessel:

(1) A vessel making an oceans or coastwise voyage;

(2) A vessel making a voyage of more than 300 miles on the Great Lakes, except from a Canadian to a United States port; and

(3) A vessel arriving from a foreign port except at a United States Great Lakes port from a Canadian Great Lakes port.

(b) The master of a vessel required to prepare a crew and passenger list by paragraph (a) of this section shall also prepare a voyage plan. The voyage plan and the list required by paragraph (a) of this section must be prepared prior to departing on a voyage and deposited ashore in a well marked location at the vessel's normal berthing location or with a representative of the owner or managing operator of the vessel.

§ 122.504 Passenger count.

The master of a vessel, except a vessel listed in § 122.502(a), shall keep a correct, written count of all passengers which embark on and disembark from the vessel. Prior to departing on a voyage, the passenger count must be deposited ashore in a well marked location at the vessel's normal berthing location or with a representative of the owner or managing operator of the vessel.

§ 122.506 Passenger safety orientation.

(a) Except as allowed by paragraph (b) of this section, before getting underway on a voyage, the master of a vessel shall ensure that suitable public announcements are made informing all passengers of the information in this section when applicable to the vessel's operations and arrangement:

(1) A general explanation of emergency and evacuation procedures;

(2) The location of emergency exits and survival craft embarkation areas;

(3) The stowage location(s) of lifejackets;

(4) The proper method of donning and adjusting lifejackets of the type(s) carried on the vessel including a demonstration of the proper donning of a lifejacket prior to beginning an oceans or coastwise voyage;

(5) The location of the instruction placards for lifejackets and other lifesaving devices;

(6) That all passengers will be required to don lifejackets when possible hazardous conditions exist, as directed by the master;

(7) The type and location of survival craft and ring life buoys carried on the vessel;

(8) The location and contents of the "Emergency Instructions" required by § 122.510; and

(9) If the vessel is operating with reduced manning or equipment requirements under § 115.114 of this subchapter.

(b) On a vessel with other than an oceans or coastwise route, as an alternative to making an announcement which complies with paragraph (a) of this section, the master or other designated person may:

(1) Make an abbreviated announcement consisting of:

(i) A statement that passengers should follow the instructions of the crew in an emergency;

(ii) The location of lifejackets; and

(iii) That further information concerning emergency procedures including the donning of lifejackets, location of other emergency equipment, and emergency evacuation procedures are located on the card or pamphlet which was given to each passenger or is located near each seat; and

(2) Prior to getting underway, deliver to each passenger or, on a vessel which does not carry vehicles and which has seats for each passenger, place near each seat, a card or pamphlet which has the information listed in paragraphs (a)(1) through (a)(9) of this section.

(c) The master of a vessel shall ensure that a passenger, who boards the vessel on a voyage after the initial public announcement has been made as required by paragraphs (a) or (b) of this section, is also informed of the required safety information.

(d) On a vessel on a voyage of more than 24 hours duration, passengers shall be requested to don lifejackets and go to the appropriate embarkation station during the safety orientation. If only a small number of passengers embark at a port after the original muster has been held, these passengers must be given the passenger safety orientation required by paragraphs (a) or (b) of this section if another muster is not held.

§ 122.508 Wearing of lifejackets.

(a) The master of a vessel shall require passengers to don lifejackets when possible hazardous conditions exist, including, but not limited to:

(1) When transiting hazardous bars and inlets;

(2) During severe weather;

(3) In event of flooding, fire, or other events which may possibly call for evacuation; and

(4) When the vessel is being towed, except a non-self-propelled vessel under normal operating conditions.

(b) When evaluating the need to require the donning of lifejackets, the master shall consider the size of the vessel and the location of the passengers on the vessel.

(c) Any passenger or crew member shall be permitted to voluntarily don a lifejacket whenever he or she desires.

(d) The master or crew shall assist passengers in obtaining a lifejacket and donning it, as necessary.

§ 122.510 Emergency instructions.

(a) Except as otherwise provided in this section, the master shall prepare and post durable emergency instruction placards in conspicuous places accessible and visible to the crew and passengers.

(b) Except when in the judgment of the cognizant OCMI the operation of a vessel does not present one of the hazards listed, the emergency instruction placard must contain at least the applicable portions of the "Emergency Instructions" listed in § 122.512. The emergency instructions must be further designed to address the particular equipment, arrangement, and operation of each individual vessel.

(c) If the cognizant OCMI determines that there is no suitable mounting surface aboard the vessel, the emergency instructions need not be posted but must be carried aboard the vessel and be available to the crew and passengers for familiarization.

§ 122.512 Emergency instruction placard format.

An emergency instruction placard containing the following information will satisfy the requirements of § 122.510.

Emergency Instructions

(1) *Rough weather at sea, crossing hazardous bars, or flooding.*

(i) Close all watertight and weathertight doors, hatches, and airports to prevent taking water aboard or further flooding in the vessel.

(ii) Keep bilges dry to prevent loss of stability due to water in bilges. Use power driven bilge pump, hand pump, and buckets to dewater.

(iii) Align fire pumps to use as bilge pump if possible.

(iv) Check all intake and discharge lines, which penetrate the hull, for leakage.

(v) Passengers must remain seated and evenly distributed.

(vi) Passengers must don lifejackets if the going becomes very rough, you are about to cross a hazardous bar, or when otherwise instructed by the master.

(vii) Never abandon the vessel unless actually forced to do so.

(viii) If assistance is needed follow the procedures on the emergency broadcast placard posted by the radiotelephone.

(ix) Prepare survival craft (life floats, (inflatable) rafts, (inflatable) buoyant apparatus, boats) for launching.

(2) *Man overboard.*

(i) Throw a ring buoy overboard as close to the person as possible.

(ii) Post a lookout to keep the person overboard in sight.

(iii) Launch rescue boat and maneuver to pick up person in the water, or maneuver the vessel to pick up the person in the water.

(iv) Have crew member put on lifejacket, attach a safety line to him or her, and have him or her stand by to jump into the water to assist the person overboard if necessary.

(v) If person is not immediately located, notify Coast Guard and other vessels in vicinity by radiotelephone.

(vi) Continue search until released by Coast Guard.

(3) *Fire.*

(i) Cut off air supply to fire—close openings such as hatches, ports, doors, ventilators, and louvers, and shut off ventilation system.

(ii) Cut off electrical system supplying affected compartment if possible.

(iii) If safe, immediately use portable fire extinguishers at base of flames for flammable liquid or grease fires or water for fires in ordinary combustible materials. Do not use water on electrical fires.

(iv) If fire is in machinery spaces, shut off fuel supply and ventilation and activate fixed extinguishing system if installed.

(v) Maneuver vessel to minimize effect of wind on fire.

(vi) If unable to control fire, immediately notify the Coast Guard and other craft in the vicinity by radiotelephone.

(vii) Move passengers away from fire, have them put on lifejackets, and if necessary, prepare to abandon the vessel.

§ 122.514 Station bill.

(a) A station bill must be posted by the master on a vessel of more than 65 feet in length having:

(1) Overnight accommodations for more than 49 passengers; or

(2) A Certificate of Inspection requiring more than four crew members at any one time, including the master.

(b) A vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers must comply with the requirements of part 78, subpart 78.13 of this chapter in regards to the content of a station bill, the duties of the crew, emergency signals, an emergency squad, and instructions.

(c) Except when paragraph (b) of this section is applicable, the station bill of a vessel of more than 65 feet in length required to have more than four crew members, must set forth the special duties and duty station of each crew member for various emergencies. The duties must, as far as possible, be comparable with the regular work of the individual. The duties must include at least the following and any other duties necessary for the proper handling of a particular emergency:

(1) The closing of hatches, airports, watertight doors, vents, scuppers, and valves for intake and discharge lines which penetrate the hull, the stopping of fans and ventilating systems, and the operating of all safety equipment;

(2) The preparing and launching of survival craft and rescue boats;

(3) The extinguishing of fire; and

(4) The mustering of passengers including the following:

(i) Warning the passengers;

(ii) Seeing that passengers are fully clothed and wearing lifejackets.

(iii) Assembling the passengers and directing them to their appointed stations; and

(iv) Keeping order in the passageways and stairways and generally controlling the movement of the passengers.

(d) The station bill must be posted at the operating station and a conspicuous location in each crew accommodation space.

§ 122.515 Passenger safety bill.

(a) A passenger safety bill must be posted by the master in each passenger cabin or stateroom on a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers.

(b) Each passenger safety bill required by this section must list:

(1) The embarkation station and the number and location of the survival craft to which each occupant of the space is assigned;

(2) The fire and emergency signal and the abandon ship signal;

(3) Essential action that must be taken in an emergency; and

(4) If immersion suits are provided for passengers, the location of the suits and illustrated instructions on the method of donning the suits.

§ 122.516 Lifejacket placards.

(a) Placards containing instructions for the donning and use of the lifejackets aboard the vessel must be posted in conspicuous places which are regularly accessible and visible to the crew and passengers.

(b) Lifejacket placards must be posted in each passenger cabin or stateroom on a vessel of more than 65 feet in length with overnight accommodations for more than 49 passengers.

(c) If the cognizant OCMI determines that there is no suitable mounting surface aboard the vessel, the lifejacket placards need not be posted but must be

carried aboard the vessel and be available to the crew and passengers for familiarization.

§ 122.518 Inflatable survival craft placards.

(a) Every vessel equipped with an inflatable survival craft must have posted in conspicuous places which are regularly accessible and visible to the crew and passengers, and by each inflatable survival craft, approved placards or other cards containing instructions for launching and inflating inflatable survival craft for the information of persons on board. The number and location of such placards for a particular vessel must be acceptable to the cognizant OCMI.

(b) Under the requirement in § 160.051–6(c)(1) of this chapter, the manufacturer of approved inflatable liferafts is required to provide approved placards containing such instructions with each liferaft. Similar placards must be used for other inflatable survival craft.

§ 122.520 Abandon ship and man overboard drills and training.

(a) The master shall conduct sufficient drills and give sufficient instructions to make sure that all crew members are familiar with their duties during emergencies which necessitate abandoning ship or the recovery of persons who have fallen overboard.

(b) A randomly scheduled abandon ship drill must be conducted as follows:

(1) An abandon ship drill must be conducted on the vessel at least once each week;

(2) Each member of the crew shall participate in at least one abandon ship drill each month; and

(3) If more than 25% of the crew have not participated in an abandon ship drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port.

(c) Each abandon ship drill must include:

(1) Summoning the crew to report to assigned stations and prepare for assigned duties;

(2) Summoning passengers on a vessel on an overnight voyage to areas of refuge or embarkation stations and ensuring that they are made aware of how the order to abandon ship will be given;

(3) Checking that passengers and crew are suitably dressed;

(4) Checking that lifejackets are correctly donned;

(5) Operation of any davits used for launching liferafts; and

(6) Instruction on the automatic and manual deployment of survival craft.

(d) Each abandon ship drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) Each rescue boat required in accordance with § 117.210 of this subchapter must be launched with its assigned crew aboard and maneuvered in the water as if during an actual man overboard situation:

(1) Once each month, if reasonable and practicable; but

(2) At least once within a 3 month period before the vessel gets underway with passengers.

(f) Onboard training in the use of davit launched liferafts must take place at intervals of not more than 4 months on a vessel with a davit launched liferaft. Whenever practicable, this must include the inflation and lowering of a liferaft. If a special liferaft intended for training purposes only is used, and is not part of the vessel's lifesaving equipment, the special liferaft must be conspicuously marked.

§ 122.524 Fire fighting drills and training.

(a) The master shall conduct sufficient fire drills to make sure that each crew member is familiar with his or her duties in case of a fire.

(b) A randomly scheduled fire drill must be conducted once each week.

(c) Each fire drill must include:

(1) Summoning passengers on a vessel on an overnight voyage to areas of refuge or embarkation stations;

(2) Summoning the crew to report to assigned stations and to prepare for and demonstrate assigned duties; and

(3) Instruction in the use of fire extinguishers and any other fire fighting equipment on board.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

§ 122.530 Responsibilities of licensed individuals.

Nothing in the emergency instructions or a station bill required by this subpart exempts any licensed individual from the exercise of good judgment in an emergency situation.

Subpart F—Markings Required

§ 122.602 Hull markings.

(a) This section applies to each vessel that fits into any one of the following categories:

(1) A vessel of more than 65 feet (19.8 meters) in length.

(2) A sailing vessel of more than 65 feet (19.8 meters) in length.

(3) A vessel authorized to carry more than 150 passengers.

(4) A vessel authorized to carry more than 12 passengers on an international voyage.

(5) A vessel with more than 1 deck above the bulkhead deck exclusive of a pilot house.

(b) Each vessel must be marked as required by part 67 of this chapter.

(c) Each vessel must:

(1) Have permanent draft marks at each end of the vessel; or

(2) Have permanent loading marks placed on each side of the vessel forward, amidships, and aft to indicate the maximum allowable draft and trim.

(d) A loading mark required by paragraph (c)(2) of this section must be a horizontal line of at least 8 inches in length and 1 inch in height, with its upper edge passing through the point of maximum draft. The loading mark must be painted in a contrasting color to the sideshell paint.

(e) On a vessel which has a load line, the amidships marks required by paragraph (c)(2) of this section will be those required by the International Load Line Convention.

(f) In cases where draft marks are obscured due to operational constraints or by protrusions, the vessel must be fitted with a reliable draft indicating system from which the bow and stern drafts can be determined.

(g) On a vessel on which the number of passengers permitted on the upper decks is limited by stability criteria, as indicated by the vessel's stability letter, the maximum number of passengers allowed on an upper deck must be indicated by a durable marking of at least 1 inch numbers and letters at the entranceway to each such deck.

§ 122.604 Lifesaving equipment markings.

(a) The name of a vessel must be marked or painted in clearly legible letters and numbers at least 3 inches high:

(1) On each side of the bow of each rescue boat; and

(2) On each life float and buoyant apparatus.

(b) Each lifejacket, immersion suit, and ring life buoy must be marked in clearly legible block capital letters with the vessel's name. The marking is not required on a lifejacket carried to meet a temporary need for additional lifejackets, if the lifejacket has the name of another vessel marked on it. For an immersion suit, the name of the person to whom the immersion suit is assigned is an acceptable alternative to the name of the vessel.

(c) The name of the vessel must be marked or painted in clearly legible letters on each Emergency Position Indicating Radio Beacon (EPIRB), except on an EPIRB in an inflatable liferaft.

(d) The number of persons capacity must be marked or painted in clearly

legible letters on each side of the bow of each rescue boat in letters and numbers at least 1.5 inches high.

(e) The number of persons capacity must be marked or painted in clearly legible letters on each life float and buoyant apparatus in letters and numbers at least 1.5 inches high. This number must:

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for as shown on its nameplate.

(f) The number of persons each inflatable liferaft is permitted to accommodate must be marked or painted in clearly legible letters and numbers at least 1.5 inches high on the inflatable liferaft container.

(g) The number and identification of the items stowed inside, and their sizes, must be marked in clearly legible letters and numbers on each container for lifejackets and immersion suits. Identification of the items may be in words, or the appropriate symbols in IMO Resolution A.603(15). Letters and numbers must be at least 2 inches high. Symbols must be at least 100 mm (4 inches) square.

(h) The name of the vessel must be marked or painted in clearly legible letters on each oar and paddle.

(i) Each lifejacket must be marked with Type I retroreflective material approved under part 164, subpart 164.018 of this chapter. The arrangement of the retroreflective material applied after [*effective date of the final rule*] must be as specified by IMO Resolution A.658(16).

(j) Each rescue boat and ring life buoy must be marked with Type II retroreflective material approved under part 164, subpart 164.018 of this chapter. The arrangement of the retroreflective material applied after [*effective date of the final rule*] must be as specified by IMO Resolution A.658(16).

§ 122.606 Escape hatches and emergency exits.

All escape hatches and other emergency exits used as means of escape must be marked on both sides in clearly legible letters at least 2 inches high: "EMERGENCY EXIT, KEEP CLEAR", unless such markings are deemed unnecessary by the cognizant OCMI.

§ 122.608 Fuel shutoff valves.

Remote fuel shutoff stations must be marked in clearly legible letters at least 1 inch high indicating purpose of the valve and direction of operation.

§ 122.610 Watertight doors and watertight hatches.

Watertight doors and watertight hatches must be marked on both sides in clearly legible letters at least 1 inch high: "WATERTIGHT DOOR—KEEP CLOSED" or "WATERTIGHT HATCH—KEEP CLOSED", unless such markings are deemed unnecessary by the cognizant OCMI.

§ 122.612 Fire protection equipment.

(a) Complete but simple instructions for the operation of a fixed gas fire extinguishing system must be located in a conspicuous place at or near each pull box and stop valve control and in the space where the extinguishing agent cylinders are stored. If the storage cylinders are separate from the protected space, the instructions must also include a schematic diagram of the system and instructions detailing alternate methods of releasing the extinguishing agent should the local manual release or stop valve controls fail to operate. Each control valve to a distribution line must be marked to indicate the space served.

(b) An alarm for a fixed gas fire extinguishing system must be clearly and conspicuously marked in clearly legible letters "WHEN ALARM SOUNDS-VACATE AT ONCE. CARBON DIOXIDE (HALON) BEING RELEASED".

(c) Each distribution line valve of a fixed gas fire extinguishing system and the fire main, must be plainly, conspicuously, and permanently marked indicating the space served.

(d) A manual fire alarm box must be conspicuously marked in clearly legible letters "IN CASE OF FIRE BREAK GLASS".

(e) An alarm for an automatic fire detecting system or a manual alarm system must be conspicuously marked in clearly legible letters "FIRE ALARM".

(f) An alarm for an automatic sprinkler system must be conspicuously marked in clearly legible letters "SPRINKLER ALARM".

(g) An alarm bell for a smoke detecting system must be conspicuously marked in clearly legible letters "SMOKE DETECTION ALARM".

(h) A control cabinet or space containing valves, manifolds, or controls for any fixed gas fire extinguishing system must be conspicuously marked in clearly legible letters "CARBON DIOXIDE (HALON) FIRE EXTINGUISHING APPARATUS", or as otherwise required by the cognizant OCMI.

Subpart G—Operational Readiness, Maintenance, and Inspection of Lifesaving Equipment

§ 122.700 Operational readiness.

(a) Each launching appliance and each survival craft and rescue boat on a vessel must be in good working order and ready for immediate use before the vessel leaves port and at all times when the vessel is underway.

(b) Each deck where survival craft or rescue boats are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the survival craft or rescue boat.

§ 122.702 Maintenance.

(a) The manufacturer's instructions for onboard maintenance of survival craft, rescue boats, and launching appliances, manufactured on or after [*effective date of the final rule*], must be onboard a vessel of more than 65 feet in length and readily available for a vessel of not more than 65 feet in length. The instructions must also be readily available at each inspection for certification and reinspection. The instructions must include the following:

(1) Checklists for use when carrying out the inspections required under this subpart;

(2) Maintenance and repair instructions;

(3) A schedule of periodic maintenance;

(4) A diagram of lubrication points with the recommended lubricants;

(5) A list of replaceable parts;

(6) A list of sources of spare parts; and

(7) A log for records of inspections and maintenance.

(b) The owner or managing operator shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.

(c) The cognizant OCMI may accept, instead of the instructions required under paragraph (a) of this section, a shipboard planned maintenance program that includes the items listed in that paragraph.

§ 122.704 Maintenance of falls.

(a) Each fall used in a launching appliance on a vessel must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is earlier.

(c) Each fall must have a corrosion resistant tag with the following permanently marked on it in clearly legible letters:

(1) The date the new fall was installed; and

(2) If the fall has been turned end for end, the date it was turned.

§ 122.720 Weekly maintenance and inspections.

The following tests and inspections must be carried out weekly on a vessel:

(a) Each survival craft, rescue boat, and launching appliance must be visually inspected to ensure its readiness for use;

(b) Each rescue boat engine must be run ahead and astern for not less than 3 minutes, unless the ambient temperature is below the minimum temperature required for starting the engine; and

(c) Each battery for rescue boat engine starting must be brought up to full charge at least once each week if:

(1) The battery is of a type that requires recharging; and

(2) The battery is not connected to a device that keeps it continuously charged.

§ 122.722 Monthly inspections.

Each survival craft, rescue boat, and launching appliance on a vessel must be inspected monthly, using the applicable checklist when required under § 122.702, to make sure it is complete and in good order.

§ 122.724 Quarterly inspections.

(a) Each winch control apparatus of a launching appliance on a vessel, including motor controllers, emergency switches, master switches, and limit switches, must be examined once in each 3 months.

(b) The examination required by paragraph (a) of this section must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.

§ 122.726 Annual inspections.

(a) Each rescue boat must be stripped, cleaned, and thoroughly inspected and repaired at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.

(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired once each year.

(c) Each item of lifesaving equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(d) Each battery used in an item of lifesaving equipment, except inflatable survival craft equipment, must be replaced during the annual inspection if the expiration date of the battery has passed. The expiration date of the battery may be marked on the battery in clearly legible letters or the owner or managing operator may have a record of the expiration date from the manufacturer of a battery marked with a serial number.

(e) Except for a storage battery used in a rescue boat, each battery without an expiration date indicated on it or for which the owner or managing operator does not have a record of the expiration date, used in an item of lifesaving equipment, must be replaced during the annual inspection.

(f) The requirements in this section do not relieve the master of the requirement under § 122.700 to keep the equipment ready for immediate use.

§ 122.728 Testing and servicing of Emergency Position Indicating Radiobeacons (EPIRBs).

The master of the vessel shall ensure that:

(a) Each EPIRB, other than an EPIRB in an inflatable liferaft, must be tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and,

(b) The EPIRB's battery is replaced after it is used, or before the date required by FCC regulations in 47 CFR Part 80, whichever comes sooner.

§ 122.730 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable lifejackets and inflated rescue boats.

(a) Each inflatable liferaft, inflatable buoyant apparatus, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced:

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

(b) Each inflatable liferaft and inflatable buoyant apparatus must be serviced:

(1) Whenever the container of the raft is damaged, or the straps or seal are broken; and

(2) In accordance with the servicing procedure under part 160, subpart 160.051 of this chapter.

(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under part 160, subpart 160.176 of this chapter.

(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under part 160, subpart 160.077 of this chapter.

(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant, except for emergency repairs carried out on board the vessel.

§ 122.740 Periodic servicing of hydrostatic release units.

(a) Each hydrostatic release unit, other than a disposable unit, must be serviced:

(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) In accordance with the repair and testing procedures under part 160, subpart 160.062 of this chapter.

(b) Each disposable hydrostatic release unit must be marked in clearly legible letters with an expiration date of two years after the date on which the unit is installed.

Subpart H—Penalties

§ 122.900 Penalty for violations.

Violation of the provisions of this subchapter will subject the violator to the applicable penalty provisions of subtitle II of title 46, United States Code.

§ 122.910 Suspension and revocation.

An individual holding a license, certificate of registry, or merchant mariner's document who commits an act of misconduct, negligence, or incompetence, or who violates or fails to comply with this subchapter or any other law or regulation intending to promote marine safety, is subject to proceedings under the provisions of 46 U.S.C. 7703 and part 5 of this chapter with respect to suspension or revocation of a license, certificate, or document.

PARTS 123–139—[RESERVED]

SUBCHAPTER S—SUBDIVISION AND STABILITY

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

2. The authority citation for part 170 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p.277; 49 CFR 1.46.

§ 170.001 [Amended]

3. Section 170.001 is amended by removing the date of January 3, 1984 in paragraphs (a) and (b) and inserting in its place the date of [effective date of the final rule].

4. Section 170.055 is amended by adding two sentences to the end of paragraph (i)(1) and adding paragraph (w) to read as follows:

§ 170.055 Definitions concerning a vessel.

* * * * *

(i) * * *

(1) * * * For a small passenger vessel which has underwater projections extending forward of the forwardmost point or aft of the aftermost point on the deepest waterline of the vessel, the Commanding Officer, U.S. Coast Guard Marine Safety Center, may include the length or a portion of the length of the underwater projections in the value used for the LBP for the purposes of this subchapter. The length or a portion of the length of projections which contribute more than 2 percent of the underwater volume of the vessel is normally added to the actual LBP.

* * * * *

(w) "Small passenger vessel" means a vessel of less than 100 gross tons carrying more than six passengers, as defined in § 175.400 of this chapter.

§ 170.075 [Amended]

5. Paragraph (b) of § 170.075 is amended by removing the citation "§ 171.030(b)(2)" and adding, in its place, "§ 178.320" and by removing the citation "§ 171.043" and adding, in its place, "§ 179.220".

§ 170.105 [Amended]

6. Section 170.105 is amended by removing paragraph (b)(1) and by redesignating paragraphs (b)(2) through (b)(5) as paragraphs (b)(1) through (b)(4), respectively.

§ 170.160 [Amended]

7. Section 170.160 is amended by removing paragraph (b)(1) and by redesignating paragraphs (b)(2) through (b)(4) as paragraphs (b)(1) through (b)(3), respectively.

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

8. The authority citation for part 171 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

9 and 10. Section 171.010 is amended by revising paragraphs (d)(1) and (3); redesignating paragraphs (l), (m) and (n) as (n), (p) and (q), respectively; redesignating paragraphs (e) through (k) as (f) through (l), respectively; and by adding newly designated paragraphs (e) and (m), and new paragraph (o) to read as follows:

§ 171.010 Definitions.

* * * * *

(d) * * *

(1) Operates in other than ocean or coastwise service; * * *

(3) Operates on a short run on a frequent schedule between two points over the most direct water route;

* * * * *

(e) *Freeing port* means any direct opening through the vessel's bulwark or hull to quickly drain overboard water which has been shipped on exposed decks.

* * * * *

(m) *Small passenger vessel* means a vessel of less than 100 gross tons carrying more than six passengers, as defined in § 175.400 of this chapter.

* * * * *

(o) *Scupper* means a pipe or tube of at least 1.25 inches in diameter leading down from a deck or sole and through the hull to drain water overboard.

11. Subpart B consisting of §§ 171.020 through 171.043, is removed and reserved.

12. Paragraphs (a) and (b) of § 171.057 are amended by revising the equations, revising the definitions of As, removing the definitions of Hm and replacing them with the definitions of Hc, and revising the definitions of W, to read as follows:

§ 171.057 Intact stability requirements for a sailing catamaran.

(a) * * *

$$\frac{0.1(W)B}{(As)(Hc)}$$

* * * * *

As = the maximum sail area in square feet (square meters)

Hc = the height of the center of effort of the sail area above the deck, in feet (meters)

W = the total displacement of the vessel, in pounds (kilograms)

* * * * *

(b) * * *

$$\frac{0.1(W)B}{(As)(Hc)}$$

* * * * *

As = the maximum sail area in square feet (square meters)

Hc = the height of the center of effort of the sail area above the deck, in feet (meters)

W = the total displacement of the vessel, in pounds (kilograms)

* * * * *

§ 171.110 [Amended]

13. Section 171.110 is amended by removing paragraph (b) and by removing the designation (a) for the remaining text.

§ 171.114 [Removed]

14. Section 171.114 is removed.

§ 171.115 [Amended]

15. Section 171.115 is amended by removing paragraph (b) and by removing the designation (a) for the remaining text.

§ 171.119 [Removed]

16. Section 171.119 is removed.

17. Section 171.120 is revised to read as follows:

§ 171.120 Specific applicability.

A vessel of at least 100 gross tons must comply with § 171.122.

§ 171.124 [Removed]

18. Section 171.124 is removed.

§ 171.130 [Amended]

19. Section 171.130 is amended by removing paragraph (b) and by removing the designation (a) for the remaining text.

§§ 171.140, 171.145, 171.150, and 171.155 [Removed]

20. Sections 171.140, 171,145, 171,150 and 171.155 are removed.

PART 173—SPECIAL RULES PERTAINING TO VESSEL USE

21. The authority citation for part 173 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2113, 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

22. The cited sections or paragraphs of part 173 listed in Column 1 of the following table, are amended by removing the existing reference, listed in Column 2, in the cited section or paragraph and adding in its place the new reference listed in Column 3.

Column 1	Column 2	Column 3
Cite	Existing reference	New reference
173.054(a)(1)	171.040(a)(1)	179.210(a) of this chapter.
173.054(b)(1)	171.040(a)(1)	179.210(a) of this chapter.

Column 1	Column 2	Column 3
Cite	Existing reference	New reference
173.054(b)(1)	171.043	179.220 of this chapter.
173.063(a)	171.035	170.170, 171.050, and 171.055.
173.064(d)	171.035 (d) through (h)	178.300 and 178.310 of this chapter.

23. The cited sections or paragraphs of part 173 listed in Column 1 of the following table, are amended by adding the corresponding phrase, listed in Column 2, to the end of the cited section or paragraph.

Column 1	Column 2
Cite	New phrase
173.059	"Or §§ 179.320, 179.330, and 179.340 of this chapter."
173.060(a)	"Or § 179.350 of this chapter."
173.061	"Or § 179.360 of this chapter."
173.062	"Or Subpart D of Part 178 of this chapter."

24. Subchapter T is revised to read as follows:

SUBCHAPTER T—SMALL PASSENGER VESSELS

PART 175—GENERAL PROVISIONS

Sec.

175.100 Purpose.
175.110 General applicability.
175.112 Specific applicability for individual parts.
175.120 Vessels on an international voyage.
175.122 Load lines.
175.200 Gross tonnage as a criterion for requirements.
175.400 Definitions of terms used in this subchapter.
175.540 Equivalents.
175.550 Special consideration.
175.560 Appeals.
175.600 Incorporation by reference.
175.800 Approved equipment and material.
175.900 OMB control numbers.

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. App.1804; 49 CFR 1.45, 1.46; § 175.900 also issued under authority of 44 U.S.C. 3507.

§ 175.100 Purpose.

The purpose of this subchapter is to implement applicable sections of Subtitle II of Title 46, United States Code, which require the inspection and certification of small passenger vessels.

§ 175.110 General applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this subchapter applies to each vessel of less than 100 gross tons which carries more than six passengers.

(b) A vessel of less than 100 gross tons must comply with subchapter K of this chapter if it is:

(1) A vessel which carries more than 150 passengers;

(2) A vessel with overnight accommodations for more than 49 passengers; or

(3) A vessel of more than 200 feet in length which carries more than six passengers.

(c) This subchapter does not apply to:

(1) A vessel operating exclusively on inland waters which are not navigable waters of the United States;

(2) An oceanographic research vessel;

(3) A boat forming part of a vessel's lifesaving equipment and which is not used for carrying passengers except in emergencies or during emergency drills;

(4) A vessel of a foreign country which is a party to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), to which the United States Government is currently a party, and which has on board a current valid SOLAS Passenger Ship Safety Certificate; or

(5) A vessel of a foreign country, whose government has inspection laws approximating those of the United States and which by its laws accords similar privileges to vessels of the United States, which has on board a current valid certificate of inspection, permitting the carrying of passengers, issued by its government.

(d) The relationship between this subchapter and other subchapters pertaining to the inspection and certification of small passenger vessels is provided in the table below, which shows the breakpoints between subchapters T and K of this chapter.

TABLE 175.110(d)

Subchapter T	Subchapter K	Subchapter K[1]
≤150 passengers or overnight accomodations for ≤ 49 passengers and ≤ 200 feet.	151–600 passengers or overnight accomodations for 50–150 passengers and ≤ 200 feet.	≥ 601 passengers or overnight accomodations for ≥ 151 passengers or ≥ 200 feet.

[1] Vessels in this category are small passenger vessels (passenger vessels less than 100 GT) but are required to comply with parts 72, 75, and 76 of subchapter H, parts 114, 115, 121, and 122 of subchapter K, and the applicable requirements of subchapters F and J.

§ 175.112 Specific applicability for individual parts.

At the beginning of certain parts of this subchapter, a more specific application is given for all or particular portions of that part. This application sets forth the type, size, service, or age of a vessel to which certain portions of that part apply or particular dates by which an existing vessel must comply with certain portions of that part.

§ 175.120 Vessels on an international voyage.

A mechanically propelled vessel which carries more than 12 passengers on an international voyage must comply with the applicable requirements of SOLAS, as well as this Subchapter.

§ 175.122 Load lines.

A vessel of 79 feet in length or more, the keel of which was laid or which was at a similar stage of construction on or after July 21, 1968, and which is on a voyage other than a domestic voyage is subject to load line assignment, certification, and marking under subchapter E (Load Lines) of this chapter.

§ 175.200 Gross tonnage as criterion for requirements.

(a) The regulations in this subchapter take into account a vessel's length, passenger capacity, construction, equipment, intended service, and operating area. The criterion for application of this subchapter is the gross tonnage of the vessel. When the Commandant determines that the gross

tonnage of a particular vessel, which is attained by exemptions, reductions, or other devices in the basic gross tonnage formulation, will circumvent or be incompatible with the application of specific regulations for a vessel of such physical size, the Commandant will prescribe the regulations to be made applicable to the vessel.

(b) When the Commandant determines that the gross tonnage is not a valid criterion for the use of certain regulations based on the relative size of the vessel, the owner will be informed of the determination and of the regulations applicable to the vessel. The vessel must be brought into compliance with all additional requirements before a Certificate of Inspection is issued.

§ 175.400 Definitions of terms used in this subchapter.

The following terms are used in this subchapter:

Accommodation space means a space used as a:

(1) Public space;
(2) Hall;
(3) Dining room and messroom;
(4) Lounge or cafe;
(5) Public sales room;
(6) Overnight accommodation space;
(7) Barber shop or beauty parlor;
(8) Office or conference room;
(9) Washroom or toilet space;
(10) Medical treatment room or dispensary; or
(11) Game or hobby room.

Beam or *B* means the maximum width of a vessel from:

(1) Outside of planking to outside of planking on wooden vessels; and
(2) Outside of frame to outside of frame on all other vessels.

Bulbous bow means a design of bow in which the forward underwater frames ahead of the forward perpendicular are swelled out at the forefoot into a bulbous formation.

Bulkhead deck means the uppermost deck to which watertight bulkheads and the watertight shell extend.

Cable means single or multiple insulated conductors with an outer protective jacket.

Cargo space means a:

(1) Cargo hold;
(2) Refrigerated cargo space; or
(3) A trunk leading to or from a space listed above.

Coast Guard District Commander or *District Commander* means an officer of the Coast Guard designated as such by the Commandant to command Coast Guard activities within a district.

Coastwise means a route which is not more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;
(2) The Gulf of Mexico;
(3) The Caribbean Sea;
(4) The Bering Sea;
(5) The Gulf of Alaska; or
(6) Such other similar waters as may be designated by a Coast Guard District Commander.

Cockpit vessel means a vessel with an exposed recess in the weather deck extending not more than one-half of the length of the vessel measured over the weather deck.

Commandant means the Commandant of the Coast Guard or an authorized Headquarters staff officer designated in § 1.01 of this chapter.

Corrosion-resistant material or *corrosion-resistant* means made of one of the following materials in a grade suitable for its intended use in a marine environment:

(1) Silver;
(2) Copper;
(3) Brass;
(4) Bronze;
(5) Aluminum alloys with a copper content of no more than 0.4 percent;
(6) Copper-nickel;
(7) Plastics;
(8) Stainless steel;
(9) Nickel-copper; or
(10) A material, which when tested in accordance with ASTM B–117 for 200 hours, does not show pitting, cracking, or other deterioration.

Crew accommodation space means an accommodation space designated for the use of crew members and which passengers are normally not allowed to occupy.

Custom engineered means, when referring to a fixed gas fire extinguishing system, a system that is designed for a specific space requiring individual calculations for the extinguishing agent volume, flow rate, piping, and similar factors for the space.

Distribution panel means an electrical panel which receives energy from the switchboard and distributes the energy to energy consuming devices or other panels.

Draft means the vertical distance from the molded baseline of a vessel amidships to the waterline.

Dripproof means enclosed equipment so constructed or protected that falling drops of liquid or solid particles striking the enclosure at any angle from 0 to 15 degrees downward from the vertical do not interfere with the operation of the equipment. A National Electrical Manufacturers Association type 1 enclosure with a dripshield is considered to be dripproof.

Dynamically supported craft means a craft which is operable on or above the water and which has characteristics so different from those of conventional displacement ships, to which the existing international conventions, particularly SOLAS, apply, that alternative measures should be used to achieve an equivalent level of safety. Within the aforementioned generality, a craft which complies with either of the following characteristics would be considered a dynamically supported craft:

(1) The weight, or a significant part thereof, is balanced in one mode of operation by other than hydrostatic forces.

(2) The craft is able to operate at speeds such that the function $v/\sqrt{gL}$ is equal to or greater than 0.9, where "v" is the maximum speed, "L" is the waterline length and "g" is the acceleration due to gravity, all in consistent units.

Embarkation station means the place on the vessel from which a survival craft is boarded.

Enclosed space means a compartment that is not exposed to the atmosphere when all access and ventilation closures are secured.

Existing vessel means a vessel which is not a new vessel.

Exposed waters is a term used in connection with stability criteria and means:

(1) Waters, except the Great Lakes, more than 20 nautical miles from a harbor of safe refuge;

(2) Those portions of the Great Lakes more than 20 nautical miles from a harbor of safe refuge from October 1 of one year through April 15 of the next year (winter season); and

(3) Those waters less than 20 nautical miles from a harbor of safe refuge which the cognizant Officer in Charge, Marine Inspection, determines are not partially protected waters or protected waters because they present special hazards due to weather or other circumstances.

Ferry means a vessel that:

(1) Operates in other than ocean or coastwise service;

(2) Has provisions only for deck passengers or vehicles, or both;

(3) Operates on a short run on a frequent schedule between two points over the most direct water route; and

(4) Offers a public service of a type normally attributed to a bridge or tunnel.

Fiber reinforced plastic means plastics reinforced with fibers or strands of some other material.

Flash point means the temperature at which a liquid gives off a flammable vapor when heated using the Pensky-Martens Closed Cup Tester method in accordance with ASTM D–93.

Float-free launching or arrangement means that method of launching a

survival craft whereby the survival craft is automatically released from a sinking vessel and is ready for use.

Flush deck vessel means a vessel with a continuous weather deck located at the uppermost sheer line of the hull.

Freeing port means any direct opening through the vessel's bulwark or hull to quickly drain overboard water which has been shipped on exposed decks.

Galley means a space containing appliances with cooking surfaces which may exceed 250°F, such as ovens, griddles, and deep fat fryers.

Great Lakes means a route on the waters of any of the Great Lakes, except that for the purposes of parts 178 and 179 of this subchapter, "Great Lakes" means both the waters of the Great Lakes and of the St. Lawrence River as far east as a straight line drawn from Cap de Rosiers to West Point, Anticosti Island, and west of a line along the 63rd meridian from Anticosti Island to the north shore of the St. Lawrence River.

Gross tonnage and *gross tons* is an indicator of a vessel's approximate volume as determined in accordance with part 69 (Measurement of Vessels) of this chapter and recorded on the vessel's Certificate of Admeasurement.

Harbor of safe refuge means a port, inlet, or other body of water normally sheltered from heavy seas by land and in which a vessel can navigate and safely moor. The suitability of a location as a harbor of safe refuge shall be determined by the cognizant Officer in Charge, Marine Inspection, and varies for each vessel, dependent on the vessel's size, maneuverability, and mooring gear.

High seas means all waters which are neither territorial seas (the waters in a belt 3 nautical miles wide, that is adjacent to the coast and seaward of the territorial sea baseline) nor internal waters of the United States or of any foreign country.

Independent laboratory means a laboratory accepted under part 159, subpart 159.010 of this chapter.

Inflatable survival craft or lifejacket means one which depends upon nonrigid, gas-filled chambers for buoyancy, and which is normally kept uninflated until ready for use.

International voyage means a voyage between a country to which SOLAS applies and a port outside that country. A country, as used in this definition, includes every territory for the international relations of which a contracting government to the convention is responsible or for which the United Nations is the administering authority. For the U.S., the term "territory" includes the Commonwealth of Puerto Rico, all possessions of the United States, and all lands held by the United States under a protectorate or mandate. For the purposes of this subchapter, vessels are not considered as being on an "international voyage" when solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

Lakes, bays, and sounds means a route on any of the following waters:

(1) A lake other than the Great Lakes;

(2) A bay;

(3) A sound; or

(4) Such other similar waters as may be designated by a Coast Guard District Commander.

Launching appliance means a device for transferring a survival craft or rescue boat from its stowed position safely to the water. For a launching appliance using a davit, the term includes the davit, winch and falls.

Length when used in terms of the vessel's length, means:

(1)(i) The length listed on the vessel's Certificate of Documentation issued under the provisions of part 67 (Documentation of Vessels) of this chapter or Certificate of Number issued under the provisions of 33 CFR part 173, subpart B (Numbering); or

(ii) For a vessel which does not have a Certificate of Documentation or a Certificate of Number, the "registered length" as defined in § 69.53 of this chapter or, for a vessel which is less than 79 feet in overall length and is measured using simplified admeasurement, the registered length as defined in § 69.203 of this chapter; or

(2) For the purposes of part 179 of this subchapter, the "length" of a vessel with a bulbous bow means the larger of the length as defined in paragraph (1)(i) of this definition or the straight line horizontal measurement from the forwardmost tip of the bulbous bow to the aftermost part of the vessel measured parallel to the centerline.

Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the "length" of a vessel.

Length between perpendiculars or *(LBP)* means the horizontal distance measured between perpendiculars taken at the forwardmost and aftermost points on the waterline corresponding to the deepest operating draft.

Machinery space means a space including a trunk, alleyway, stairway, or duct to such a space, that contains:

(1) Propulsion machinery of any type;

(2) Steam or internal combustion machinery;

(3) Oil transfer equipment;

(4) Electrical motors of more than 10 hp;

(5) Refrigeration equipment;

(6) One or more oil-fired boilers or heaters; or

(7) Electrical generating machinery.

Main transverse watertight bulkhead means a transverse bulkhead that must be maintained watertight in order for the vessel to meet the damage stability and subdivision requirements of this subchapter.

Major conversion means a conversion of a vessel that, as determined by the Commandant:

(1) Alters the dimensions of the vessel including but not limited to gross tonnage, length, breath, or height;

(2) Alters the design or arrangement so that the vessel is capable of carrying more passengers than it was originally built to carry;

(3) Alters the design or scantlings of a vessel so that it is suitable for operation on a route of greater severity than the route for which it was originally built; or

(4) Adds or modifies overnight accommodation spaces for passengers so that the total number of passengers that can be accommodated in such spaces changes from not more than 49 to more than 49.

Marine inspector or *inspector* means any civilian employee or military member of the Coast Guard assigned by an Officer in Charge, Marine Inspection, or the Commandant to perform duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

Master means the individual having command of the vessel and who is the holder of a valid license which authorizes the individual to serve as master of a small passenger vessel.

Means of escape means a continuous and unobstructed way of exit travel from any point in a vessel to an embarkation station. It consists of three distinct components:

(1) The exit access;

(2) The exit; and

(3) The exit discharge.

A means of escape can be both vertical and horizontal, and includes doorways, passageways, stairtowers, stairways, and public spaces. Cargo spaces, machinery spaces, rest rooms, hazardous areas, escalators, and elevators must not be any part of a means of escape.

New vessel means a vessel:

(1) The initial construction of which began on or after [*effective date of the final rule*];

(2) Which was issued an initial Certificate of Inspection on or after [*six*

months after effective date of the final rule];

(3) Which underwent a major conversion which was initiated on or after [*effective date of the final rule*]; or

(4) Which underwent a major conversion which was completed and for which an amended Certificate of Inspection was issued on or after [*six months after effective date of the final rule*].

Noncombustible material means any material approved under § 164.009 of this chapter.

Nonself-propelled vessel means a vessel which does not have installed means of propulsion, including propulsive machinery, masts, spars, or sails.

Oceans means a route which is more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Bering Sea;

(5) The Gulf of Alaska; or

(6) Such other similar waters as may be designated by a Coast Guard District Commander.

Officer In Charge, Marine Inspection, or *OCMI* means an officer of the Coast Guard designated as such by the Commandant and who, under the direction of the Coast Guard District Commander, is in charge of a marine inspection zone, described in part 1 of this chapter, for the performance of duties with respect to the inspections, enforcement, and administration of vessel safety and navigation laws and regulations. The cognizant OCMI is the OCMI that has immediate jurisdiction over a vessel for the purpose of performing the duties previously described.

Open boat means a vessel not protected from entry of water by means of a complete weathertight deck, or by a combination of a partial weathertight deck and superstructure which is structurally suitable for the waters upon which the vessel operates.

Open deck means a deck that is permanently open to the weather on one or more sides and, if covered, any spot on the overhead is less than 15 feet from the nearest opening to the weather.

Open to the atmosphere means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

Operating station means the principal steering station on the vessel from which the individual on duty normally navigates the vessel.

Overnight accommodations or *overnight accommodation space* means an accommodation space for use by passengers or by crew members, which has one or more berths, including beds or bunks, for passengers or crew members to rest for extended periods. Staterooms, cabins, and berthing areas are normally overnight accommodation spaces. Overnight accommodations do not include spaces which contain only seats, including reclining seats.

Partially enclosed space means a compartment that is neither open to the atmosphere nor an enclosed space.

Partially protected waters is a term used in connection with stability criteria and means:

(1) Waters not more than 20 nautical miles from the mouth of a harbor of safe refuge, unless determined by the cognizant OCMI to be exposed waters;

(2) Those portions of rivers, estuaries, harbors, lakes, and similar waters which the cognizant OCMI determines not to be protected waters; and

(3) Waters of the Great Lakes from April 16 through September 30 of the same year (summer season).

Passenger means an individual carried on a vessel except:

(1) The owner or representative of the owner;

(2) The master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

(3) An employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(4) An employee of the demise charterer of the vessel engaged in the business of the demise charterer;

(5) A guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

(6) An individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.

Passenger accommodation space means an accommodation space designated for the use of passengers.

Pilothouse control means that controls to start and stop the engines and control the direction and speed of the propeller of the vessel are located at the operating station.

Piping system includes piping, fittings, and appurtenances as described in 46 CFR 56.07–5.

Protected waters is a term used in connection with stability criteria and means sheltered waters presenting no special hazards such as most rivers, harbors, and lakes, and which is not determined to be exposed waters or partially protected waters by the cognizant OCMI.

Pre-engineered means, when referring to a fixed gas fire extinguishing system, a system that is designed and tested to be suitable for installation without modification as a complete unit in a space of a set volume, regardless of the specific design of the vessel on which it is installed.

Rivers means a route on any of the following waters:

(1) A river;

(2) A canal; or

(3) Such other similar waters as may be designated by a Coast Guard District Commander.

Sailing vessel means a vessel principally equipped for propulsion by sail even if the vessel has an auxiliary means of propulsion.

Scupper means a pipe or tube of at least 1.25 inches in diameter leading down from a deck or sole and through the hull to drain water overboard.

Self-bailing cockpit means a cockpit, with watertight sides and floor (sole), which is designed to free itself of water by gravity drainage through scuppers.

Ship's service loads means services necessary for maintaining the vessel in normal operational and habitable conditions. These loads include, but are not limited to, safety, lighting, ventilation, navigational, and communications loads.

Short international voyage means an international voyage where:

(1) The vessel is not more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety; and

(2) The total distance between the last port of call in the country in which the voyage began and the final port of destination does not exceed 600 nautical miles.

Stairway means an inclined means of escape between two decks.

Steel or equivalent material means steel or any noncombustible material which, by itself or due to insulation provided, has structural and integrity properties equivalent to steel at the end of the standard fire test.

Survival craft means a lifeboat, rigid liferaft, inflatable liferaft, life float, inflatable buoyant apparatus, buoyant apparatus, or a small boat carried aboard a vessel in accordance with § 180.200(b) of this subchapter.

Switchboard means an electrical panel which receives power from a generator, battery, or other electrical power source and distributes power directly or indirectly to all equipment supplied by the generating plant.

Trunk means a vertical shaft or duct for the passage of pipes, wires, or other devices except that for the purposes of part 179 of this subchapter, "trunk"

means a large enclosed passageway through any deck or bulkhead of a vessel.

Vehicle space means a space not on an open deck, for the carriage of motor vehicles with fuel in their tanks, into and from which such vehicles can be driven and to which passengers have access.

Vessel includes every description of watercraft or other artificial contrivance, used or capable of being used as a means of transportation on water.

Vessel of the United States means a vessel documented or numbered under the laws of the United States, the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Watertight means designed and constructed to withstand a static head of water without any leakage, except that "watertight" for the purposes of electrical equipment means enclosed so that water does not enter the equipment when a stream of water from a hose with a nozzle one inch in diameter that delivers at least 65 gallons per minute is played on the enclosure from any direction from a distance of ten feet for five minutes.

Weather deck means a deck which is partially or completely exposed to the weather from above or from at least two sides, except that for the purposes of parts 178 and 179 of this subchapter, "weather deck" means the uppermost deck exposed to the weather to which a weathertight sideshell extends.

Weathertight means that water will not penetrate in any sea condition, except that "weathertight equipment" means equipment constructed or protected so that exposure to a beating rain will not result in the entrance of water.

Well deck vessel means a vessel with a weather deck fitted with solid bulwarks that impede the drainage of water over the sides or a vessel with an exposed recess in the weather deck extending more than one-half of the length of the vessel measured over the weather deck.

Wire means an individual insulated conductor without an outer protective jacket.

Work space means a space, not normally occupied by a passenger, in which a crew member performs work and includes, but is not limited to, a galley, operating station, or machinery space.

§ 175.540 Equivalents.

(a) The Commandant may accept in substitution for a required arrangement, fitting, appliance, apparatus, equipment, calculation, information, or test an equivalent that is as effective as that required by the regulations and is consistent with the intent of the requirements and the minimum safety standards specified in this subchapter. Requests for equivalents must be submitted to the Commandant via the cognizant OCMI. If necessary, the Commandant may require engineering evaluations and tests to demonstrate the equivalence of the substitute.

(b) The Commandant may accept compliance by a dynamically supported craft with the provisions of the IMO "Code of Safety for Dynamically Supported Craft" as an equivalent to compliance with applicable requirements of this subchapter. Requests for equivalents must be submitted to the Commandant via the cognizant OCMI.

(c) The Commandant may approve a novel lifesaving appliance or arrangement as an equivalent if it has performance characteristics at least equivalent to the appliance or arrangement required under this part, and:

(1) Is evaluated and tested under IMO Resolution A.520(13), "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements"; or

(2) Has successfully undergone evaluation and tests that are substantially equivalent to those recommendations.

§ 175.550 Special consideration.

In applying the provisions of this subchapter, the OCMI may give special consideration to authorizing departures from the specific requirements when unusual circumstances or arrangements warrant such departures and an equivalent level of safety is provided. The OCMI of each marine inspection zone in which the vessel operates must approve any special consideration granted to a vessel.

§ 175.560 Appeals.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with part 1, subpart 1.03 of this chapter.

§ 175.600 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish a notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the Office of the Federal Register, 800 N. Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection Division (G–MVI), 2100 Second Street SW., Washington, DC 20593–0001 and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are:

American Bureau of Shipping (ABS), P.O. Box 910, 45 Eisenhower Dr., Paramus, NJ 07652

Rules for Building and Classing Aluminum Vessels, 1975, 177.300

Rules for Building and Classing Reinforced Plastic Vessels, 1978, 177.300

Rules for Building and Classing Steel Vessels, 1991, 182.410; 183.360

Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length, 1983, 177.300

Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 1980, 177.300

American Boat and Yacht Council (ABYC), P.O. Box 747, 405 Headquarters Dr., Suite 3, Millersville, MD 21108–07477

A–1–78—Marine CNG—Liquefied Petroleum Gas Systems, 184.240

A–3–70—Recommended Practices and Standards Covering Galley Stoves, 184.200

A–7–70—Recommended Practices and Standards Covering Boat Heating Systems, 184.200

A–16–89—Electric Navigation Lights, 183.130

A–22–78—Marine CNG—Compressed Natural Gas Systems, 184.240

E–8–85—Alternating Current (AC) Electrical Systems on Boats, 183.130

E–9–90—Direct Current (DC) Electrical Systems on Boats, 183.130

H–2–89—Ventilation of Boats Using Gasoline, 182.130; 182.460

H–22–86—DC Electric Bilge Pumps Operating Under 50 Volts, 182.130; 182.500

H–24–89—Gasoline Fuel Systems, 182.130; 182.440; 182.445; 182.450; 182.455

H–25–86—Portable Fuel Systems for Flammable Liquids, 182.130; 182.458

H–32–87—Ventilation of Boats Using Diesel Fuel, 182.130; 182.465; 182.470

H–33–89—Diesel Fuel Systems, 182.130; 182.440; 182.445; 182.450; 182.455

P–1–86—Installation of Exhaust Systems for Propulsion and Auxiliary Engines, 177.405; 177.410; 182.130; 182.425; 182.430

P–4–89—Marine Inboard Engines, 182.130; 182.420

American National Standards Institute (ANSI), United Engineering Center, 345 East 47th St., New York, NY 10017

A 17.1–1984—American Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, 183.540
B 31.1–1986—American National Standard Code for Pressure Piping, Power Piping, 182.710
Z 26.1–1983—Safety Glazing Materials For Glazing Motor Vehicles Operating on Land Highways, 177.1030

American Society for Testing and Materials (ASTM), 1916 Race St., Philadelphia, PA 19103

B–117–79—Method of Salt Spray (Fog) Testing, 175.400
D–93–80—Flash Point By Pensky-Martens Closed Cup Tester, 175.400
D–635–81—Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Self-supporting Plastics in a Horizontal Position, 182.440
D–2863–77—Standard Test Method for Measuring the Minimum Oxygen Concentration to Support Candle-like Combustion of Plastics (Oxygen Index), 182.440
E–84–81—Test for Surface Burning Characteristics of Building Materials, 177.410
F—[Reserved for standard on pyrotechnic lockers under development by ASTM], 180.68

Australian Transport Advisory Council, Australian Government Publishing Service, Canberra, Australia

Australia Shipping Law Code Section 5, Subsection J, as amended to August 1, 1984, 177.300

Institute of Electrical and Electronics Engineers, Inc. (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, N.J. 08854

Standard 45–1983—Recommended Practice for Electrical Installations on Shipboard, 183.340

International Maritime Organization (IMO), IMO Sales, New York Nautical Instrument and Service Corp., 40 W. Broadway, New York, NY 10013

Code of Safety for Dynamically Supported Craft, 1987, 175.540
Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements—IMO Resolution A.520(13), 175.540(c)
Resolution on the Installation of Reflective Tape on Lifesaving Equipment—IMO Resolution A.658(16), 185.604

Lloyd's Register of Shipping, 17 Battery Place, Suite 1013, New York, NY 10004

Rules and Regulations for the Classification of Yachts and Small Craft, as amended through May 11, 1983, 177.300

National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101

10–1988—Portable Fire Extinguishers, 176.810
17–1985—Dry Chemical Extinguishing Systems, 181.425
17A–1986—Wet Chemical Extinguishing Systems, 181.425
70–1987—National Electrical Code (NEC)
Section 250–95 183.370
Section 310–13, 183.340
Section 310–15, 183.340
Article 430, 183.320
Article 445, 183.320
302–1989—Pleasure and Commercial Motor Craft, Chapter 6, 184.200; 184.240
306–1988—Control of Gas Hazards on Vessels, 176.710
1963–1985—Screw Threads and Gaskets for Fire Hose Connections, 181.320

Naval Publications and Forms Center, Customer Service Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120

Military Specification MIL-P–21929B (1970)—Plastic Material, Cellular Polyurethane, Foam-in-Place, Rigid (2 and 4 pounds per cubic foot), 179.240

Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096–0001

SAE J1475—Hydraulic Hose Fittings For Marine Applications, 1984, 182.720
SAE J1928—Devices Providing Backfire Flame Control for Gasoline Engines in Marine Applications, August 1989, 182.415
SAE J1942—Hose and Hose Assemblies for Mariner Applications, (date of standard to be inserted upon publication, which is expected prior to the final rule), 182.720

Underwriters Laboratories Inc. (UL), 12 Laboratory Drive, Research Triangle Park, NC 27709

UL 19–1978—Woven Jacketed, Rubber Lined Fire Hose, 181.320
UL 57–1980—Electric Lighting Fixtures, 183.410
UL 174–1983—Standard for Household Electric Stowage Tank Water Heaters, 182.320
UL 217–1985—Standard for Single and Multiple Station Smoke Detectors, 181.450
UL 486A–1978—Electric Wire Connectors and Soldering Lugs For Use With Copper Conductors, 183.340
UL 489–1986—Molded—Case Circuit Breakers and Circuit Breaker Enclosures, 183.380
UL 595–1980—Marine Type Electric Lighting Fixtures, 183.410
UL 710–1984—Grease Extractors for Exhaust Ducts, 181.425
UL 1058–1984—Halogenated Agent Fire Extinguishing System Units, 181.410(g)
UL 1102–1980—Non-integral Marine Fuel Tanks, 182.440
UL 1110–1976—Marine Combustible Gas Indicators, 182.480
UL 1111–1988—Marine Carburetor Flame Arrestors, 182.415
UL 1453–1982—Electric Booster and Commercial Storage Tank Water Heaters, 182.320
UL 1570–1988—Fluorescent Lighting Fixtures, 183.410
UL 1571–1984—Incandescent Lighting Fixtures, 183.410
UL 1572–1984—High Intensity Discharge Lighting Fixtures, 183.410
UL 1573–1985—Stage and Studio Lighting Units, 183.410
UL 1574–1987—Track Lighting Systems, 183.410

§ 175.800 Approved equipment and material.

(a) Equipment and material that is required by this subchapter to be approved or of an approved type, must have been manufactured and approved in accordance with the design and testing requirements in subchapter Q (Equipment, Construction, and Materials: Specifications and Approval) of this chapter or as otherwise specified by the Commandant.

(b) Notice regarding equipment approvals is published in the **Federal Register**. Coast Guard publication COMDTINST M16714.3, "Equipment Lists, Items Approved, Certificated or Accepted under Marine Inspection and Navigation Laws", lists approved equipment by type and manufacturer. COMDTINST M16714.3 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

§ 175.900 OMB control numbers.

(a) *Purpose.* This section lists the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR Section where identified:	Current OMB Control Number:
176.105(a)	:2115–0578
176.202	:2115–0578
176.204	:2115–0578
176.302	:2115–0578
176.306	:2115–0578
176.310	:2115–0578
176.500(a)	:2115–0578
176.612	:2115–0578
176.700	:2115–0578
176.704	:2115–0578
176.710	:2115–0578
176.810(b)	:2115–0578
176.920(c)	:2115–0578
176.930	:2115–0578
177.202	:2115–0578
177.315	:2115–0589
177.330	:2115–0578
177.335	:2115–0589
177.340	:2115–0578
178.210	:2115–0578
178.220	:2115–0559
178.230	:2115–0559

46 CFR Section where identified:	Current OMB Control Number:
181.610	:2115–0578
182.460(e)	:2115–0578
182.610(f)	:2115–0578
183.220(d)	:2115–0578
183.320(d) and (e)	:2115–0578
184.420	:2115–0578
184.506	:2115–0578
185.202	:2115–0003
185.206	:2115–0003
185.208	:2115–0578
185.220	:2115–0578
185.230	:2115–0578
185.260	:2115–0578
185.280	:2115–0578
185.340(c)	:2115–0578
185.402	:2115–0578
185.502	:will be displayed when assigned by OMB
185.504	:2115–0578
185.506	:2115–0578
185.510	:2115–0578
185.514	:2115–0578
185.516	:2115–0578
185.518	:2115–0578
185.602	:2115–0578
185.604	:2115–0578
185.606	:2115–0578
185.608	:2115–0578
185.610	:2115–0578
185.612	:2115–0578
185.702	:2115–0578
185.704(c)	:2115–0578

PART 176—INSPECTION AND CERTIFICATION

Subpart A—Certificate of Inspection

Sec.

176.100 When required.
176.103 Description.
176.105 How to obtain or renew
176.107 Period of validity.
176.110 Routes permitted.
176.112 Total persons permitted.
176.113 Passengers permitted.
176.114 Alternative requirements for a vessel carrying six or less passengers.
176.120 Certificate of Inspection amendment.

Subpart B—Special Permits and Certificates

176.202 Permit to proceed.
176.204 Permit to carry excursion party.

Subpart C—Posting of certificates, permits, and stability letters

176.302 Certificates and permits.
176.306 Stability letter.
176.310 Certification expiration date stickers.

Subpart D—Inspection for Certification

176.400 General.
176.402 Initial inspection for certification.
176.404 Subsequent inspections for certification.

Subpart E—Reinspection

176.500 When required.
176.502 Scope.

Subpart F—Hull and Tailshaft Examinations

176.600 Drydock and internal structural examination intervals.
176.610 Scope of drydock and internal structural examinations.
176.612 Notice and plans required.
176.630 Tailshaft examinations.
176.670 Extension of examination intervals.

Subpart G—Repairs and Alterations

176.700 Permission for repairs and alterations.
176.702 Installation tests and inspections.
176.704 Breaking of safety valve seals.
176.710 Inspection and testing for gas hazards.

Subpart H—Material Inspections

176.800 Inspection standards.
176.801 Notice of inspection deficiencies and requirements.
176.802 Hull.
176.804 Machinery.
176.806 Electrical.
176.808 Lifesaving.
176.810 Fire protection.
176.812 Pressure vessels and boilers.
176.814 Steering systems.
176.816 Miscellaneous systems and equipment.
176.818 Sanitary inspection.
176.830 Unsafe practices.
176.840 Additional tests and inspections.

Subpart I—International Convention for Safety of Life at Sea, 1974, as Amended (SOLAS)

176.900 Applicability.
176.910 Passenger Ship Safety Certificate.
176.920 Exemptions.
176.930 Equivalents.

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—Certificate of Inspection

§ 176.100 When required.

(a) A vessel to which this subchapter applies may not be operated without having on board a valid U.S. Coast Guard Certificate of Inspection.

(b) Except as noted in § 176.114, each vessel inspected and certificated under the provisions of this subchapter must, when any passengers are aboard during the tenure of the certificate, be in full compliance with the terms of the certificate.

(c) If necessary to prevent delay of the vessel, a temporary Certificate of Inspection may be issued pending the issuance and delivery of the regular Certificate of Inspection. The temporary certificate must be carried in the same manner as the regular certificate and is considered the same as the regular Certificate of Inspection which it represents.

(d) A vessel on a foreign voyage between a port in the United States and a port in a foreign country, whose Certificate of Inspection expires during the voyage, may lawfully complete the voyage without a valid Certificate of Inspection provided the voyage is completed within 30 days of expiration and the certificate did not expire within 15 days of sailing on the foreign voyage from a U.S. port.

§ 176.103 Description.

The Certificate of Inspection issued to a vessel describes the vessel, the route(s) which it may travel, the minimum manning requirements, the survival and rescue craft carried, the minimum fire extinguishing equipment and lifejackets required to be carried, the maximum number of passengers and total persons which may be carried, the number of passengers the vessel may carry in overnight accommodation spaces, the name of the owner and managing operator, any equivalencies accepted or authorized by the Commandant or any OCMI under §§ 175.540 or 175.550, and such other conditions of operations as may be determined by the cognizant OCMI.

§ 176.105 How to obtain or renew.

(a) A Certificate of Inspection is obtained or renewed by making application for an initial or periodic inspection on Form CG 3752, Application for Inspection of U.S. Vessel, to the Coast Guard OCMI of the marine inspection zone in which the inspection is to be made. Form CG–3752 may be obtained at any U.S. Coast Guard Marine Safety Office or Marine Inspection Office.

(b) The application for initial inspection of a vessel being newly constructed or converted must be submitted prior to the start of the construction or conversion.

(c) The construction, arrangement, and equipment of each vessel must be acceptable to the cognizant OCMI as a prerequisite of the issuance of the initial Certificate of Inspection. Acceptance is based on the information, specifications, drawings and calculations available to the OCMI and on the successful completion of an initial inspection for certification.

(d) A Certificate of Inspection is renewed by the issuance of a new Certificate of Inspection.

(e) The condition of the vessel and its equipment must be acceptable to the cognizant OCMI as a prerequisite to the Certificate of Inspection renewal. Acceptance is based on the condition of the vessel as found at the periodic inspection for certification.

§ 176.107 Period of validity.

(a) A Certificate of Inspection is issued for a period of three years.

(b) A Certificate of Inspection may be suspended and withdrawn or revoked by the cognizant OCMI at any time for noncompliance with the requirements of this subchapter.

§ 176.110 Routes permitted.

(a) The area of operation for each vessel and any necessary operational limits are determined by the cognizant OCMI, and recorded on the vessel's Certificate of Inspection. Each area of operation, referred to as a route, is described on the Certificate of Inspection under the major headings "oceans," "coastwise," "Great Lakes," "lakes, bays, and sounds," or "rivers," as applicable. Further limitations imposed or extensions granted are described by reference to bodies of water, geographical points, distance from geographical points, distances from land, depths of channel, seasonal limitations, and similar factors.

(b) The maximum allowable distance a dynamically supported craft or a vessel complying with the IMO "Code of Safety for Dynamically Supported Craft" as equivalent to the requirements of this subchapter, as allowed by § 175.540(b) of this subchapter, may operate from a harbor of safe refuge is designated by the cognizant OCMI, but may not be more than 100 nautical miles.

(c) Operation of a vessel on a route of lesser severity than those specifically described or designated on the Certificate of Inspection is permitted unless expressly prohibited on the Certificate of Inspection. The general order of severity of routes is: "oceans," "coastwise," "Great Lakes," "lakes, bays, and sounds," and "rivers." The cognizant OCMI may prohibit a vessel from operating on a route of lesser severity than the primary route a vessel is authorized to operate on if local conditions necessitate such a restriction.

(d) Nonself-propelled vessels are prohibited from operating on an "oceans", "coastwise", or "Great Lakes" route unless the Commandant approves such a route.

(e) When designating a permitted route or imposing any operational limits on a vessel, the OCMI may consider:

(1) Requirements of this subchapter for which compliance is based on the route of the vessel;

(2) The performance capabilities of the vessel based on design, scantlings, stability, subdivision, propulsion, speed, operating modes, maneuverability, and other characteristics; and

(3) The suitability of the vessel for night-time operations and use in all weather conditions.

§ 176.112 Total persons permitted.

The cognizant OCMI determines the total number of persons permitted to be carried on a vessel. In determining the total number of persons permitted to be carried, the OCMI may consider stability restrictions and subdivision requirements of the vessel, the vessel's route, general arrangement, means of escape, lifesaving equipment, the minimum manning requirements, and the maximum number of passengers permitted in accordance with § 176.113.

§ 176.113 Passengers permitted.

(a) The maximum number of passengers permitted to be carried on a vessel is determined by the cognizant OCMI. The maximum number permitted must be not more than that allowed by the requirements of this section, except as authorized by the OCMI under paragraph (d) of this section.

(b) The maximum number of passengers permitted on any vessel may be the greatest number permitted by the length of rail criterion, deck area criterion, or fixed seating criterion described in this paragraph or a combination of these criteria as allowed by paragraph (c) of this section.

(1) *Length of rail criterion.* One passenger may be permitted for each 30 inches of rail space available to the passengers at the periphery of each deck. The following rail space may not be used in determining the maximum number of passengers permitted:

(i) Rail space in congested areas unsafe for passengers, such as near anchor handling equipment or line handling gear, in the way of sail booms, running rigging, or paddle wheels, or along pulpits;

(ii) Rail space on stairways; and

(iii) Rail space where persons standing in the space would block the vision of the licensed individual operating the vessel.

(2) *Deck area criterion.* One passenger may be permitted for each 10 square feet of deck area available for the passengers' use. In computing such deck area, the areas occupied by the following must be excluded:

(i) Concession stands, fixed tables, fixed gambling equipment, and similar furnishings;

(ii) Toilets and washrooms;

(iii) Companionways and stairways;

(iv) Spaces occupied by and necessary for handling lifesaving equipment, anchor handling equipment or line handling gear, or in the way of sail booms or running rigging;

(v) Spaces below deck which are unsuitable for passengers or which would not normally be used by passengers;

(vi) Interior passageways less than 30 inches wide and passageways on open deck less than 18 inches wide;

(vii) Bow pulpits, swimming platforms and areas which do not have a solid deck, such as netting on multi-hull vessels;

(viii) Deck areas in way of paddle wheels; and

(ix) Aisle area provided in accordance with § 177.820(d).

(3) *Fixed seating criterion.* One passenger may be permitted for each 18 inches of width of fixed seating provided under § 177.820 of this subchapter. Each sleeping berth in overnight accommodation spaces shall be counted as only one seat.

(c) Different passenger capacity criteria may be used on each deck of a vessel and added together to determine the total passenger capacity of that vessel. Where seats are provided on part of a deck and not on another, the number of passengers permitted on a vessel may be the sum of the number permitted by the seating criterion for the space having seats and the number permitted by the deck area criterion for the space having no seats. The length of rail criterion must not be combined with either the deck area criterion or the fixed seating criterion on an individual deck.

(d) For a vessel operating on short runs on protected waters such as a ferry, the cognizant OCMI may give special consideration to increases in passenger allowances.

§ 176.114 Alternative requirements for a vessel carrying six or less passengers.

(a) When authorized by the cognizant OCMI by an endorsement of the vessel's Certificate of Inspection, a small passenger vessel carrying six or less passengers, and operating as a commercial fishing vessel or other uninspected vessel or as a recreational vessel, need not meet the requirements of:

(1) Part 180, subparts C, D, and E, of this subchapter providing the vessel is in satisfactory compliance with the lifesaving equipment regulations for an uninspected vessel or recreational vessel in a similar service;

(2) Part 177, subpart C, and parts 178 and 179 of this subchapter providing the vessel is in satisfactory compliance with applicable regulations for an uninspected vessel or recreational vessel in a similar service or if the owner of the vessel otherwise establishes to the satisfaction of the

cognizant OCMI that the vessel is seaworthy for the intended service; and

(3) Sections 184.404 and 184.410 of this subchapter providing the vessel is in satisfactory compliance with applicable regulations for an uninspected or recreational vessel in a similar service.

(b) A vessel operating under the alternative regulations of paragraph (a) of this section must:

(1) Not alter the arrangement of the vessel nor remove any equipment required by the certificate for the intended operation, without the consent of the cognizant OCMI;

(2) Comply with the minimum manning specified on the Certificate of Inspection, which may include reduced manning for when the vessel carries not more than six passengers;

(3) When carrying from one to six passengers, make the announcement required by § 185.506(a)(9) of this subchapter must be made before getting underway; and

(4) If a vessel of more than 15 gross tons, not carry freight for hire.

(c) The endorsement issued under paragraph (a) of this section must indicate the maximum route, number of passengers, and the manning required to operate under the provisions of this section.

§ 176.120 Certificate of inspection amendment.

(a) An amended Certificate of Inspection may be issued at any time by any OCMI. The amended Certificate of Inspection replaces the original, but the expiration date remains the same as that of the original. An amended Certificate of Inspection may be issued to authorize and record a change in the dimensions, gross tonnage, owner, managing operator, manning, persons permitted, route permitted, conditions of operations, or equipment of a vessel, from that specified in the current Certificate of Inspection.

(b) A request for an amended Certificate of Inspection must be made to the cognizant OCMI by the owner or managing operator of the vessel at any time there is a change in the character of a vessel or in its route, equipment, ownership, operation, or similar factors specified in its current Certificate of Inspection.

(c) The OCMI may require an inspection prior to the issuance of an amended Certificate of Inspection.

Subpart B—Special Permits and Certificates

§ 176.202 Permit to proceed.

(a) When a vessel is not in compliance with its Certificate of Inspection or fails to comply with a regulation of this subchapter, the cognizant OCMI may permit the vessel to proceed to another port for repair, if in the judgment of the OCMI, the trip can be completed safely, even if the Certificate of Inspection of the vessel has expired or is about to expire.

(b) Form CG–948, "Permit to Proceed to another Port for Repairs," may be issued by the cognizant OCMI to the owner, managing operator, or the master of the vessel stating the conditions under which the vessel may proceed to another port. The permit may be issued only upon the written application of the owner, managing operator, or master, and after the vessel's Certificate of Inspection is turned over to the OCMI.

(c) A vessel may not carry passengers when operating in accordance with a permit to proceed, unless the cognizant OCMI determines that it is safe to do so.

§ 176.204 Permit to carry excursion party.

(a) The cognizant OCMI may permit a vessel to engage in a temporary excursion operation with a greater number of persons or on a more extended route, or both, than permitted by its Certificate of Inspection when, in the opinion of the OCMI, the operation can be undertaken safely.

(b) Upon the written application of the owner or managing operator of the vessel, the cognizant OCMI may issue a "Permit To Carry Excursion Party", Form CG–949, to indicate his or her permission to carry an excursion party. The OCMI will indicate on the permit the conditions under which it is issued, the number of persons the vessel may carry, the crew required, any additional lifesaving or safety equipment required, the route for which the permit is granted, and the dates on which the permit is valid.

(c) The number of passengers normally permitted on an excursion vessel shall be governed by § 176.113.

(d) The OCMI shall not normally waive the applicable minimum safety standards when issuing an excursion permit. In particular, a vessel which is being issued an excursion permit should meet the minimum stability, survival craft, fire safety, and manning standards applicable to a vessel in the service for which the excursion permit is requested.

(e) The permit acts as a temporary, limited duration supplement to the vessel's Certificate of Inspection and must be carried with the Certificate of Inspection. A vessel operating under a permit to carry an excursion party must be in full compliance with the terms of its Certificate of Inspection as supplemented by the permit.

(f) The OCMI may require an inspection prior to the issuance of a permit to carry an excursion party.

Subpart C—Posting of Certificates, Permits, and Stability Letters

§ 176.302 Certificates and permits.

The Certificate of Inspection and any SOLAS Certificates must be posted under glass or other suitable transparent material, such that all pages are visible, in a conspicuous place on the vessel where observation by passengers is likely. If posting is impracticable, such as on open boats, the certificates must be kept on board in a weathertight container readily available for use by the crew and display to passengers and others on request.

§ 176.306 Stability letter.

When, in accordance with § 178.210 of this subchapter, a vessel must be provided with a stability letter, the stability letter must be posted under glass or other suitable transparent material, such that all pages are visible, at the operating station of the vessel. If posting is impracticable, the stability letter must be kept on board in a weathertight container readily available for use by the crew and display to passengers and others on request.

§ 176.310 Certification expiration date stickers.

(a) A Certification Expiration Date Sticker indicates the date upon which the vessel's Certificate of Inspection expires and is provided by the cognizant OCMI in the number required, upon issuance or renewal of the Certificate of Inspection.

(b) A vessel that is issued a Certificate of Inspection under the provisions of this subchapter must not be operated without a valid Certification Expiration Date Sticker affixed to the vessel on a place that is:

(1) A glass or other smooth surface from which the sticker may be removed without damage to the vessel;

(2) Readily visible to each passenger prior to boarding the vessel and to patrolling Coast Guard law enforcement personnel; and

(3) Acceptable to the Coast Guard marine inspector.

(c) The Coast Guard marine inspector may require the placement of more than one sticker in order to insure compliance with paragraph (b)(2) of this section.

Subpart D—Inspection for Certification

§ 176.400 General.

(a) An inspection is required before the issuance of a Certificate of

Inspection. Such an inspection for certification is not made until after receipt of the application for inspection required by § 176.105.

(b) Upon receipt of a written application for inspection, the cognizant OCMI assigns a marine inspector to inspect the vessel for compliance with this subchapter at a time and place mutually agreed upon by the OCMI and the owner, managing operator, or representative thereof.

(c) The owner, managing operator, or a representative thereof shall be present during the inspection.

§ 176.402 Initial inspection for certification.

(a) Before construction or conversion of a vessel intended for small passenger vessel service, the owner of the vessel shall submit plans, manuals, and calculations indicating the proposed arrangement, construction, and operations of the vessel, to the cognizant OCMI for approval, except when submitted to the Marine Safety Center (MSC) as allowed by part 177 of this subchapter, unless otherwise allowed by the OCMI. The plans, manuals, and calculations required to be submitted and the disposition of these plans are set forth in part 177, subpart B of this subchapter.

(b) The initial inspection is conducted to determine that the vessel and its equipment comply with applicable regulations and that the vessel was built or converted in accordance with approved plans, manuals, and calculations. Additionally, during the inspection the materials, workmanship, and condition of all parts of the vessel and its machinery and equipment may be checked to determine if the vessel is satisfactory in all respects for the service intended.

(c) The owner or managing operator of a vessel shall ensure that the vessel complies with the laws and regulations applicable to the vessel and that the vessel is otherwise satisfactory for the intended service. The initial inspection may include an inspection of the following items:

(1) The arrangement, installation, materials, and scantlings of the structure including the hull and superstructure, yards, masts, spars, rigging, sails, piping, main and auxiliary machinery, pressure vessels, steering apparatus, electrical installations, fire resistant construction materials, lifesaving appliances, fire detecting and extinguishing equipment, pollution prevention equipment, and all other equipment;

(2) Sanitary conditions and fire hazards; and

(3) Certificates and operating manuals, including certificates issued by the FCC.

(d) During an initial inspection for certification the owner or managing operator shall conduct all tests and make the vessel available for all applicable inspections discussed in this paragraph, and in subpart H of this part, to the satisfaction of the cognizant OCMI, including the following:

(1) The installation of each rescue boat and survival craft launching appliance required by § 71.20–20(a)(1) of this chapter.

(2) The installation of each rescue boat, liferaft, inflatable buoyant apparatus, and launching appliance as listed on its Certificate of Approval (Form CGHQ–10030).

(3) Machinery, fuel tanks, and pressure vessels as required by part 182 of this subchapter.

(4) A stability test or a simplified stability test when required by § 170.175 of this chapter or § 178.320 of this subchapter.

(5) Watertight bulkheads as required by part 179 of this subchapter.

(6) Firefighting systems as required by part 181 of this subchapter.

(7) The operation of all smoke and fire detecting systems, and fire alarms and sensors.

§ 176.404 Subsequent inspections for certification.

An inspection for renewal of a Certificate of Inspection normally includes inspection and testing of the structure, machinery, equipment, and on a sailing vessel, rigging and sails. The owner or managing operator shall conduct all tests as required by the marine inspector, and make the vessel available for all specific inspections and drills required by subpart H of this part. The inspection is conducted to determine if the vessel is in satisfactory condition, fit for the service intended, and complies with the applicable regulations in this subchapter.

Subpart E—Reinspection

§ 176.500 When required.

(a) The owner or managing operator shall make a vessel available for reinspections within 60 days of each anniversary of the date of issuance of the Certificate of Inspection during each triennial inspection period. The owner or managing operator shall contact the cognizant OCMI to arrange for a reinspection to be conducted at a time and place acceptable to the OCMI.

(b) In addition to the requirements of paragraph (a) of this section, a reinspection may be made at such other times as may be required by the cognizant OCMI.

§ 176.502 Scope.

In general, the scope of the reinspection is the same as the inspection for certification but in less detail unless it is determined that a major change has occurred since the last inspection for certification.

Subpart F—Hull and Tailshaft Examinations

§ 176.600 Drydock and internal structural examination intervals.

(a) The owner or managing operator shall make a vessel available for drydock examinations and internal structural examinations required by this section.

(b) A vessel making an international voyage must undergo a drydock examination and an internal structural examination at least once every 12 months. If the vessel becomes due for a drydock examination or an internal structural examination during the voyage, it may lawfully complete the voyage prior to the examination if it undergoes the required examination upon completion of the voyage to the United States but not later than 30 days after the examination was due. If the vessel is due for an examination within 15 days of sailing on an international voyage from a United States port, it must undergo the required examination before sailing.

(c) Except as provided in paragraphs (d) through (f) of this section, a vessel not making an international voyage must undergo a drydock examination and an internal structural examination as follows:

(1) A vessel which is exposed to salt water more than three months in any 12 month period since the last examination must undergo a drydock examination and an internal structural examination at least once every two years; and

(2) A vessel which is exposed to salt water not more than three months in any 12 month period since the last examination must undergo a drydock examination and an internal structural examination at least once every five years.

(d) Regardless of the type of water in which it operates, a vessel with a wooden hull must undergo a drydock examination and an internal structural examination as follows:

(1) If not more than 20 years old, at least once every two years; or

(2) If more than 20 years old, at least once every 12 months.

(e) Whenever damage or deterioration to hull plating or structural members

which may affect the seaworthiness of a vessel is discovered or suspected, the cognizant OCMI may conduct an internal structural examination in any affected space including fuel tanks, and require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(f) Whenever a vessel is drydocked or hauled out other than as required by this section, the owner or operator must notify the cognizant OCMI so that a marine inspector may examine the vessel.

§ 176.610 Scope of drydock and internal structural examinations.

(a) A drydock examination conducted in compliance with § 176.600 must be conducted while the vessel is hauled out of the water or placed in a drydock or slipway. During the examination all accessible parts of the vessel's underwater body and all through hull fittings, including the hull plating and planking, appendages, propellers, shafts, bearings, rudders, sea chests, sea valves, and sea strainers must be examined. Sea chests, sea valves, and sea strainers must be opened for examination. On wooden vessels, fastenings may be required to be pulled for examination.

(b) An internal structural examination conducted in compliance with § 176.600 may be conducted while the vessel is afloat or out of the water and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating and planking, voids, and ballast, cargo, and fuel oil tanks. Where the internal framing, plating, or planking of the vessel is concealed, sections of the lining, ceiling or insulation may be removed or the parts otherwise probed or exposed so that the inspector may be satisfied as to the condition of the hull structure. Fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

§ 176.612 Notice and plans required.

(a) The owner or managing operator shall notify the cognizant OCMI as far in advance as possible whenever a vessel is to be hauled out or placed in a drydock or slipway in compliance with § 176.600 or to undergo repairs or alterations affecting the safety of the vessel, together with the nature of any repairs or alterations contemplated. Hull repairs or alternations which affect the safety of the vessel include but are not limited to the replacement, repair, or refastening of planking, plating, or structural members including the repair of cracks.

(b) Whenever a vessel is hauled out or placed in a drydock or slipway in excess of the requirements of this subpart for the purpose of maintenance, such as changing a propeller, painting, or cleaning the hull, no report need be made to the cognizant OCMI.

(c) The owner or managing operator of each vessel that holds a Load Line Certificate shall make plans showing the vessel's scantlings available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination or internal structural examination or whenever repairs or alterations affecting the safety or seaworthiness of the vessel are made to the vessel's hull.

§ 176.630 Tailshaft examinations.

The marine inspector may require any part or all of the propeller shafting to be drawn for examination of the shafting and stern bearing of a vessel whenever the condition of the shafting and bearings are in question. The inspector may conduct a visual examination and may require nondestructive testing of the tailshaft.

§ 176.670 Extension of examination intervals.

The intervals between drydock examinations and internal structural examinations specified in § 176.600 may be extended by the Commandant. Requests for extensions must be submitted to the Commandant via the cognizant OCMI.

Subpart G—Repairs and Alterations

§ 176.700 Permission for repairs and alterations.

(a) Repairs or alterations to the hull, machinery, or equipment which affect the safety of the vessel must not be made without the approval of the cognizant OCMI, except during an emergency. When repairs are made during an emergency, the owner, managing operator, or master shall notify the OCMI as soon as practicable after such repairs or alternations are made. Repairs or alterations which affect the safety of the vessel include, but are not limited to: replacement, repair, or refastening of deck or hull planking, plating, and structural members; repair of plate or frame cracks; damage repair or replacement, other than replacement in kind, of electrical wiring, fuel lines, tanks, boilers and other pressure vessels, and steering, propulsion and power supply systems; alterations affecting stability; and repair or alteration of lifesaving, fire detecting, or fire extinguishing equipment.

(b) The owner or managing operator shall submit drawings, sketches, or written specifications describing the details of any proposed alterations to the cognizant OCMI. Proposed alterations must be approved by the OCMI before work is started.

(c) Drawings are not required to be submitted for repairs or replacements in kind.

(d) The OCMI may require an inspection and testing whenever a repair or alteration is undertaken.

§ 176.702 Installation tests and inspections.

Whenever a launching appliance, survival craft, rescue boat, fixed fire extinguishing equipment, machinery, fuel tank, or pressure vessel is installed aboard a vessel after completion of the initial inspection for certification of the vessel, as replacement equipment or as a new installation, the owner or managing operator shall conduct the tests and make the vessel ready for the inspections required by § 176.402(d) to the satisfaction of the cognizant OCMI.

§ 176.704 Breaking of safety valve seals.

The owner, managing operator, or master shall notify the cognizant OCMI as soon as practicable after the seal on a boiler safety valve on a vessel is broken.

§ 176.710 Inspection and testing for gas hazards.

(a) An inspection must be conducted in accordance with the provisions of NFPA 306 before alterations, repairs, or other operations involving riveting, welding, burning, or other fire producing actions may be made aboard a vessel:

(1) Within or on the boundaries of fuel tanks; or

(2) To pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks.

(b) An inspection required by paragraph (a) of this section must be conducted as required by this paragraph.

(1) In ports or places in the United States or its territories and possessions, the inspection must be conducted by a marine chemist certificated by the National Fire Protection Association. However, if the services of a certified marine chemist are not reasonably available, the cognizant OCMI, upon the recommendation of the vessel owner or managing operator, may authorize another person to inspect the vessel. If the inspection indicates that the operations can be undertaken safely, a

certificate setting forth this fact in writing must be issued by the certified marine chemist or the authorized person before the work is started. The certificate must include any requirements necessary to reasonably maintain safe conditions in the spaces certified throughout the operation, including any precautions necessary to eliminate or minimize hazards that may be present from protective coatings or residues from cargoes.

(2) When not in a port or place in the United States or its territories and possessions, and when a marine chemist or a person authorized by the cognizant OCMI is not reasonably available, the master shall conduct the inspection and enter the results of the inspection in the vessel's logbook.

(c) The owner, managing operator, or master shall obtain a copy of certificates issued by the certified marine chemist or the other person authorized by the cognizant OCMI, and shall ensure that all conditions on the certificates are observed and that the vessel is maintained in a safe condition. The owner, managing operator, or master shall maintain a safe condition on the vessel by requiring full observance, by persons under his or her control, of all requirements listed in the certificate.

Subpart H—Material Inspections

§ 176.800 Inspection standards.

(a) A vessel is inspected for compliance with the standards required by this subchapter. Machinery, equipment, materials, and arrangements not covered by standards in this subchapter may be inspected in accordance with standards acceptable to the cognizant OCMI as good marine practice.

(b) In the application of inspection standards due consideration must be given to the hazards involved in the operation permitted by a vessel's Certificate of Inspection. Thus, the standards may vary in accordance with the vessel's area of operation or any other operational restrictions or limitations.

(c) The published standards of classification societies and other recognized safety associations may be used as guides in the inspection of vessels when such standards do not conflict with the requirements of this subchapter.

§ 176.801 Notice of inspection deficiencies and requirements.

(a) If during the inspection of a vessel, the vessel or its equipment is found not to conform to the requirements of law or the regulations in this subchapter, the marine inspector will point out deficiencies observed and discuss all requirements with the owner, managing operator, or a representative thereof. Normally, the marine inspector will list all such requirements which have not been completed and present the list to the owner, managing operator, or a representative thereof.

(b) In any case where further clarification of or reconsideration of any requirement placed against the vessel is desired, the owner, managing operator, or a representative thereof, may discuss the matter with the cognizant OCMI.

§ 176.802 Hull.

(a) At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of the hull structure and its appurtenances, including the following:

(1) Inspection of all accessible parts of the exterior and interior of the hull, the watertight bulkheads, and weather decks;

(2) Inspection and operation of all watertight closures in the hull, decks, and bulkheads including through hull fittings and sea valves;

(3) Inspection of the condition of the superstructure, masts, and similar arrangements constructed on the hull, and on a sailing vessel all spars, standing rigging, running rigging, blocks, fittings, and sails;

(4) Inspection of all railings and bulwarks and their attachment to the hull structure;

(5) Inspection to ensure that guards or rails are provided in dangerous places;

(6) Inspection and operation of all weathertight closures above the weather deck and the provisions for drainage of sea water from the exposed decks; and

(7) Inspection of all interior spaces to ensure that they are adequately ventilated and drained, and that means of escape are adequate and properly maintained.

(b) The vessel must be afloat for at least a portion of the inspection as required by the marine inspector.

(c) When required by the marine inspector, a portion of the inspection must be conducted while the vessel is underway so that the working of the hull can be observed.

§ 176.804 Machinery.

At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of machinery, fuel, and piping systems, including the following:

(a) Operation of the main propulsion machinery both ahead and astern;

(b) Operational test and inspection of engine control mechanisms including primary and alternate means of starting machinery;

(c) Inspection of all machinery essential to the routine operation of the vessel including generators and cooling systems;

(d) External inspection of fuel tanks and inspection of tank vents, piping, and pipe fittings;

(e) Inspection of all fuel systems;

(f) Operational test of all valves in fuel lines by operating locally and at remote operating positions;

(g) Operational test of all overboard discharge and intake valves and watertight bulkhead pipe penetration valves;

(h) Operational test of the means provided for pumping bilges; and

(i) Test of machinery alarms including bilge level alarms.

§ 176.806 Electrical.

At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspection of electrical equipment and systems, including the following:

(a) Inspection of all cable as far as practicable without undue disturbance of the cable or electrical apparatus;

(b) Test of circuit breakers by manual operation;

(c) Inspection of fuses including ensuring the ratings of fuses are suitable for the service intended;

(d) Inspection of rotating electrical machinery essential to the routine operation of the vessel;

(e) Inspection of all generators, motors, lighting fixtures and circuit interrupting devices located in spaces or areas which may contain flammable vapors;

(f) Inspection of batteries for condition and security of stowage;

(g) Operational test of electrical apparatus, which operates as part of or in conjunction with a fire detection or alarm system installed on board the vessel, by simulating, as closely as practicable, the actual operation in case of fire; and

(h) Operational test of all emergency electrical systems.

§ 176.808 Lifesaving.

(a) At each initial and subsequent inspection for certification of a vessel, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspections of lifesaving equipment and systems, including the following:

(1) Tests of each rescue boat and each rescue boat launching appliance and survival craft launching appliance in accordance with § 71.25–15 of this chapter;

(2) Inspection of each lifejacket, work vest, and marine buoyant device;

(3) If used, inspection of the passenger safety orientation cards or pamphlets allowed by § 185.506(b)(2) of this subchapter;

(4) Inspection of each inflatable liferaft and inflatable lifejacket to determine that it has been serviced as required by § 185.730 of this subchapter; and

(5) Inspection of each hydrostatic release unit to determine that it is in compliance with the servicing and usage requirements of § 185.740 of this subchapter.

(b) Each item of lifesaving equipment determined by the marine inspector to not be in serviceable condition must be repaired or replaced.

(c) Each item of lifesaving equipment with an expiration date on it must be replaced if the expiration date has passed.

(d) The owner or managing operator shall destroy, in the presence of the marine inspector, each lifejacket, other personal floatation device, and other lifesaving device found to be defective and incapable of repair.

(e) At each initial and subsequent inspection for certification of a vessel, the vessel must be equipped with an adult size lifejacket for each person authorized. The vessel must also be equipped with child size lifejackets equal to at least 10 percent of the maximum number of passengers permitted to be carried unless children are prohibited from being carried aboard the vessel.

(f) Lifejackets, work vests, and marine buoyant devices may be marked with the date and marine inspection zone to indicate that they have been inspected and found to be in serviceable condition by a marine inspector.

(g) At each initial and subsequent inspection for certification, the marine inspector may require that an abandon ship or man overboard drill be held under simulated emergency conditions specified by the inspector.

§ 176.810 Fire protection.

(a) At each initial and subsequent inspection for certification, the owner or managing operator shall be prepared to conduct tests and have the vessel ready for inspection of its fire protection equipment, including the following:

(1) Inspection of each hand portable fire extinguisher, semiportable fire extinguisher, and fixed gas fire extinguishing system to check for excessive corrosion and general condition;

(2) Inspection of piping, controls, and valves, and the inspection and testing of alarms and ventilation shutdowns, for each fire extinguishing system and detecting system to determine that the system is in operating condition;

(3) Operation of the fire main system and checking of the pressure at the most remote and highest outlets;

(4) Testing of each firehose to a test pressure equivalent to its maximum service pressure;

(5) Checking of each cylinder containing compressed gas to ensure it has been tested and marked in accordance with part 147, § 147.60 of this chapter;

(6) Testing or renewal of flexible connections and discharge hoses on semiportable extinguishers and fixed gas extinguishing systems in accordance with part 147, § 147.65 of this chapter; and

(7) Inspection and testing of all smoke and fire detection systems, including sensors and alarms.

(b) The owner, managing operator, or a qualified servicing facility as applicable shall conduct the following inspections and tests:

(1) For portable fire extinguishers, the inspections, maintenance procedures, and hydrostatic pressure tests required by Chapter 4 of NFPA 10 with the frequency specified by NFPA 10. In addition, carbon dioxide and halon portable fire extinguishers must be refilled when the net content weight loss exceeds that specified for fixed systems by Table 176.810(b). The owner or managing operator shall provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility may be required to perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(2) For semiportable and fixed systems, the inspections and tests required by Table 176.810(b), in addition to the tests required by §§ 147.60 and 147.65 of this chapter. The owner or managing operator shall provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility may be required to perform the required inspections, maintenance procedures, and hydrostatic pressure tests.

TABLE 176.810(b).—SEMIPORTABLE AND FIXED SYSTEMS

Type system	Test
Carbon Dioxide.	Weigh cylinders. Recharge if weight loss exceeds 10% of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to be sure they are clean.
Halon	Weigh cylinders. Recharge if weight loss exceeds 5% of weight of charge. If the system has a pressure gauge, also recharge if pressure loss (adjusted for temperature) exceeds 10%. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to be sure they are clean.
Dry Chemical (Cartridge Operated).	Examine pressure cartridge and replace if end is punctured or if determined to be in unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Ensure dry chemical is free flowing (not caked) and extinguidher contains full charge.
Dry Chemical (Stored Pressure).	See that pressure gauge is in operating range. If not, or if seal is broken, weigh or otherwise determine that extinguisher is fully charged with dry chemical. Recharge if pressure is low of if dry chemical is needed.
Foam (Cartridge Operated).	Examine pressure cartridge and replace if end is punctured or if determined to have leaked or to be in unsuitable condition. Ensure extinguisher contains full charge. Replace premixed agent every 3 years.
Foam (Stored Pressure).	See that pressure gauge, if so equipped, is in the operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge if pressure is low or if foam is needed. Replace premixed agent every 3 years.

(c) The owner, managing operator, or master shall destroy, in the presence of the marine inspector, each fire hose

found to be defective and incapable of repair.

(d) At each initial and subsequent inspection for certification, the marine inspector may require that a fire drill be held under simulated emergency conditions to be specified by the inspector.

§ 176.812 Pressure vessels and boilers.

(a) Periodic inspection and testing requirements for pressure vessels are contained in part 61, subpart 61.10 of this chapter.

(b) Periodic inspection and testing requirements for boilers are contained in part 61, subpart 61.05 of this chapter.

§ 176.814 Steering systems.

At each initial and subsequent inspection for certification the owner or managing operator shall be prepared to test the steering systems of the vessel and make them available for inspection to the extent necessary to determine that they are in suitable condition and fit for the service intended. Servo-type power systems, such as orbitrol systems, must be tested and capable of smooth operatation by a single person in the manual mode, with hydraulic pumps secured.

§ 176.816 Miscellaneous systems and equipment.

At each initial and subsequent inspection for certification the owner or managing operator shall be prepared to test and make available for inspection all items in the ship's outfit, such as ground tackle, navigation lights and equipment, markings, and placards, which are required to be carried by the regulations in this subchapter, as necessary to determine that they are fit for the service intended.

§ 176.818 Sanitary inspection.

At each inspection for certification and at every other vessel inspection, quarters, toilet and washing spaces, galleys, serving pantries, lockers, and similar spaces may be examined to determine that they are serviceable and in a sanitary condition.

§ 176.830 Unsafe practices.

(a) At each inspection for certification and at every other vessel inspection all observed unsafe practices, fire hazards, and other hazardous situations must be corrected and all required guards and protective devices must be in satisfactory condition.

(b) At each inspection for certification and at every other vessel inspection the bilges and other spaces may be examined to see that there is no accumulation of oil, trash, debris, or other matter which might create a fire hazard, clog bilge pumping systems, or block emergency escapes.

§ 176.840 Additional tests and inspections.

The cognizant OCMI may require that a vessel and its equipment undergo any additional test or inspection deemed necessary to determine that the vessel and its equipment are suitable for the service in which they are to be employed.

Subpart I—International Convention for Safety of Life at Sea, 1974, as Amended (SOLAS)

§ 176.900 Applicability.

(a) Except as otherwise provided in this subpart, a mechanically propelled vessel of the United States, which carries more than 12 passengers on an international voyage must be in compliance with the applicable requirements of SOLAS, to which the United States Government is currently a party.

(b) SOLAS does not apply to a vessel solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd Meridian.

§ 176.910 Passenger Ship Safety Certificate.

(a) A vessel, which carries more than 12 passengers on an international voyage must have a valid SOLAS Passenger Ship Safety Certificate. The Commandant issues the original SOLAS Passenger Ship Safety Certificate after receiving notification from the cognizant OCMI that the vessel complies with the applicable SOLAS regulations. Subsequent SOLAS Passenger Ship Safety Certificates are issued by the cognizant OCMI unless any changes to the vessel or its operations have occurred which changes the information on the certificate, in which case the Commandant will reissue the certificate.

(b) The route specified on the Certificate of Inspection and the SOLAS Passenger Ship Safety Certificate must agree.

(c) A SOLAS Passenger Ship Safety Certificate is issued for a period of not more than 12 months.

(d) The SOLAS Passenger Ship Safety Certificate may be withdrawn, revoked, or suspended at any time when the vessel is not in compliance with applicable SOLAS requirements.

§ 176.920 Exemptions.

(a) In accordance with Regulation 4, Chapter I (General Provisions) of SOLAS, the Commandant may exempt a vessel, which is not normally engaged on an international voyage but which in exceptional circumstances is required to undertake a single international voyage, from any of the requirements of the regulations of SOLAS provided that the vessel complies with safety requirements which are adequate in the Commandant's opinion for the voyage which is to be undertaken.

(b) In accordance with Chapter II–1 (Construction—Subdivision and Stability, Machinery and Electrical Installations) Regulation 1, Chapter II–2 (Construction—Fire Protection, Fire Detection and Fire Extinction) Regulation 1, and Chapter III (Life Saving Appliances and Arrangements) Regulation 2 of SOLAS, the Commandant may exempt a vessel which does not proceed more than 20 miles from the nearest land from any of the specific requirements of Chapters II–1, II–2, and III of SOLAS if the Commandant determines that the sheltered nature and conditions of the voyage are such as to render the application of such requirements unreasonable or unnecessary.

(c) The Commandant may exempt a vessel from requirements of the regulations of SOLAS in accordance with paragraphs (a) and (b) of this section upon a written request from the owner or managing operator submitted to the Commandant via the cognizant OCMI.

(d) When the Commandant grants an exemption to a vessel in accordance with this section, the Commandant will issue the original SOLAS Exemption Certificate describing the exemption. Subsequent SOLAS Exemption Certificates are issued by the cognizant OCMI unless any changes to the vessel or its operations have occurred which changes the information on the SOLAS Exemption or Passenger Ship Safety Certificates, in which case the Commandant will reissue the certificate. A SOLAS Exemption Certificate is not valid for longer than the period of the SOLAS Passenger Ship Safety Certificate to which it refers.

§ 176.930 Equivalents.

In accordance with Regulation 5, Chapter I (General Provisions) of SOLAS, the Commandant may accept an equivalent to a particular fitting, material, appliance, apparatus, or any particular provision required by SOLAS regulations if satisfied that such equivalent is as least as effective as that required by the regulations. An owner or managing operator of a vessel may submit a request for the acceptance of an equivalent following the procedures in § 175.540 of this subchapter. The

Commandant will indicate the acceptance of an equivalent on the vessel's SOLAS Passenger Ship Safety Certificate.

PART 177—CONSTRUCTION AND ARRANGEMENT

Subpart A—General Provisions

Sec.
177.100 General requirement.
177.115 Applicability to existing vessels.

Subpart B—Plans

177.202 Plans and information required.
177.210 Plans for sister vessels.

Subpart C—Hull Structure

177.300 Structural design.
177.310 Satisfactory service as a design basis.
177.315 Vessels of not more than 65 feet in length carrying not more than 12 passengers.
177.330 Sailing vessels.
177.340 Alternate design considerations.

Subpart D—Fire Protection

177.405 General arrangement and outfitting.
177.410 Structural fire protection.

Subpart E—Escape Requirements

177.500 Means of escape.

Subpart F—Ventilation

177.600 Ventilation of enclosed and partially enclosed spaces.
177.620 Ventilation of machinery and fuel tank spaces.

Subpart G—Crew Spaces

177.700 General requirements.
177.710 Overnight accommodations.

Subpart H—Passenger Accommodations

177.800 General requirements.
177.810 Overnight accommodations.
177.820 Seating.

Subpart I—Rails and Guards

177.900 Deck rails.
177.920 Storm rails.
177.940 Guards in vehicle spaces.
177.960 Guards for exposed hazards.
177.970 Protection against hot piping.

Subpart J—Window Construction and Visibility

177.1010 Safety glazing materials.
177.1020 Strength.
177.1030 Operating station visibility.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 177.100 General requirement.

The construction and arrangement of a vessel must allow the safe operation of the vessel in accordance with the terms of its certificate of inspection giving consideration to provisions for a seaworthy hull, protection against fire, means of escape in case of a sudden unexpected casualty, guards and rails in hazardous places, ventilation of enclosed spaces, and necessary facilities for passengers and crew.

§ 177.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraph (b) of this section, an existing vessel must comply with the construction and arrangement regulations which were applicable to the vessel on [*date of day before effective date of the final rule*] or, as an alternative, the vessel may comply with the regulations in this part.

(b) Alterations or modifications which are not a major conversion, made to the structure or arrangements, regulated by this part, of an existing vessel on or after [*effective date of the final rule*] must comply with the regulations of this part. Repairs or maintenance conducted on an existing vessel, resulting in no significant changes to the original structure or arrangement of the vessel, must comply with the regulations applicable to the vessel on [*date of day before effective date of the final rule*] or, as an alternative, with the regulations in this part. However, when outfit items such as furnishings and mattresses are renewed, they must comply with the regulations in this part.

Subpart B—Plans

§ 177.202 Plans and information required.

(a) Except as provided in paragraph (b) of this section and § 177.210, the owner of a vessel requesting initial inspection for certification shall, prior to the start of construction unless otherwise allowed by the cognizant OCMI, submit for approval to the cognizant OCMI, at least two copies of the following plans, manuals, analyses, and calculations that are applicable to the vessel as determined by the OCMI:

(1) Midship section;
(2) Outboard profile;
(3) Inboard profile;
(4) Arrangement of decks;
(5) Survival craft embarkation stations;
(6) Machinery installation;
(7) Electrical installation including, but not limited to:
(i) Elementary one-line diagram of the power system;
(ii) Cable lists;
(iii) Bills of materials;
(iv) Type and size of generators and prime movers;
(v) Type and size of generator cables, bus-tie cables, feeders, and branch circuit cables;
(vi) Power, lighting, and interior communication panelboards with number of circuits and rating of energy consuming devices;
(vii) Type and capacity of storage batteries;
(viii) Rating of circuit breakers and switches, interrupting capacity of circuit breakers, and rating and setting of overcurrent devices; and
(ix) Electrical plant load analysis.
(8) Lifesaving equipment locations and installation;
(9) Ventilation diagrams;
(10) Engine exhaust diagram;
(11) Fire main system plans and calculations;
(12) Fixed gas fire extinguishing system plans and calculations;
(13) Fire detecting system and smoke detecting system plans;
(14) Sprinkler system plans and calculations;
(15) Portable fire extinguisher types, sizes and locations;
(16) Fuel tanks;
(17) Piping systems including: firemain, bilge, ballast, hydraulic, sanitary, compressed air, combustible and flammable liquids, vents, soundings, and overflows;
(18) Hull penetrations and shell connections;
(19) Lines and offsets, curves of form, cross curves of stability, and tank capacities including size and location on vessel;
(20) Masts, including integration into the ship's structure, on sailing vessels;
(21) Rigging plan showing sail areas and centers of effort as well as the arrangement, dimensions, and connections of the standing rigging for sailing vessels;
(22) Steering and steering control, including rudder details;
(23) Marine sanitation device model number, approval number, connecting wiring and piping; and
(24) Propulsion and propulsion control, including shaft details.

(b) For a vessel of not more than 65 feet in length, the owner may submit specifications, sketches, photographs, line drawings or written descriptions instead of any of the required drawings, provided the required information is adequately detailed and acceptable to the cognizant OCMI.

(c) When authorized by the cognizant OCMI, an owner may submit any plans, manuals, or calculations, required to be submitted to the OCMI under this part, to the Commanding Officer, U.S. Coast Guard Marine Safety Center (Marine Safety Center), 400 Seventh Street, SW., Washington, DC 20590–0001. Three copies of all documents are required to be submitted for Marine Safety Center plan approval.

(d) For a vessel, the construction of which was begun prior to approval of the plans and information required by

paragraphs (a) and (b) of this section, the cognizant OCMI may require any additional plans and information, manufacturers' certifications of construction, testing including reasonable destructive testing, and inspections, which the OCMI determines are necessary to verify that the vessel complies with the requirements of this subchapter.

§ 177.210 Plans for sister vessels.

(a) Plans are not required for a vessel which is a sister vessel, provided:

(1) Approved plans for the original vessel are on file at the Marine Safety Center or in the files of the cognizant OCMI;

(2) The owner of the plans authorizes their use for the new construction of the sister vessel;

(3) The regulations used for the original plan approval have not changed since the original approval; and

(4) There are no major modifications to any of the systems to be used.

(b) If approved plans for the original vessel are not on file at the MSC or with the cognizant OCMI, the vessel owner shall submit plans as described in § 177.202.

Subpart C—Hull Structure

§ 177.300 Structural design.

Except as otherwise allowed by this subpart, a vessel must comply with the structural design requirements of one of the standards listed below for the hull material of the vessel.

(a) Wooden hull vessels—Rules and Regulations for the Classification of Yachts and Small Craft, Lloyd's Register of Shipping (Lloyd's);

(b) Steel hull vessels:

(1) Rules and Regulations for the Classification of Yachts and Small Craft, Lloyd's; or

(2) Rules for Building and Classing Steel Vessels Under 61 Meters (200 Ft) in Length, ABS;

(c) Fiber reinforced plastic vessels:

(1) Rules and Regulations for the Classification of Yachts and Small Craft, Lloyd's; or

(2) Rules for Building and Classing Reinforced Plastic Vessels, ABS;

(d) Aluminum hull vessels:

(1) Rules and Regulations for the Classification of Yachts and Small Craft, Lloyd's;

(2) For a vessel of more than 100 feet in length—Rules for Building and Classing Aluminum Vessels, ABS; or

(3) For a vessel of not more than 100 feet in length—Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length, ABS, with the appropriate conversions from the ABS Rules for Building and Classing Aluminum Vessels;

(e) Ferrocement hull vessels—Australian Transport Advisory Council Shipping Laws Code Section 5, Subsection J.

(f) Steel hull vessels operating in protected waters—Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, ABS.

§ 177.310 Satisfactory service as a design basis.

When scantlings for the hull, deckhouse, and frames of the vessel differ from those specified by the standards listed in § 177.300, and the owner can demonstrate that the vessel, or another vessel approximating the same size, power, and displacement, has been built to such scantlings and has been in satisfactory service insofar as structural adequacy is concerned for a period of at least 5 years, such scantlings may be approved by the cognizant OCMI instead of the scantlings required by the applicable standards specified in § 177.300.

§ 177.315 Vessels of not more than 65 feet in length carrying not more than 12 passengers.

The scantlings for a vessel of not more than 65 feet in length carrying not more than 12 passengers which do not meet the standards in §§ 177.300 or 177.310 may be approved by the cognizant OCMI if the builder of the vessel establishes to the satisfaction of the OCMI that the design and construction of the vessel is adequate for the intended service.

§ 177.330 Sailing vessels.

The design, materials, and construction of masts, posts, yards, booms, bowsprits, and standing rigging on a sailing vessel must be suitable for the intended service. The hull structure must be adequately reinforced to ensure sufficient strength and resistance to plate buckling. The cognizant OCMI may require the owner to submit detailed calculations on the strength of the mast, post, yards, booms, bowsprits, and standing rigging.

§ 177.340 Alternate design considerations.

When the structure of vessel is of novel design, unusual form, or special materials, which cannot be reviewed or approved under §§ 177.300, 177.310 or 177.315, the structure may be approved by the Commanding Officer, Marine Safety Center, when it can be shown by systematic analysis based on engineering principles that the structure provides adequate safety and strength. The owner shall submit detailed plans, material component specifications, and design criteria, including the expected operating environment, resulting loads on the vessel, and design limitations for such vessel, to the cognizant OCMI for initial evaluation and forwarding to the Marine Safety Center.

Subpart D—Fire Protection

§ 177.405 General arrangement and outfitting.

(a) *Fire hazards to be minimized.* The general construction of the vessel must be such as to minimize fire hazards insofar as it is reasonable and practicable.

(b) *Combustibles insulated from heated surfaces.* Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear of and suitably insulated from combustible material. Dry exhaust systems for internal combustion engines on wooden or fiber reinforced plastic vessels must be installed in accordance with ABYC Standard P–1.

(c) *Separation of machinery and fuel tank spaces from accommodation spaces.* Machinery and fuel tank spaces must be separated from accommodation spaces by boundaries which prevent the passage of vapors.

(d) *Paint and flammable liquid lockers.* Paint and flammable liquid lockers must be constructed of steel or equivalent material, or wholly lined with steel or equivalent material.

(e) *Vapor barriers.* Vapor barriers must be provided where insulation of any type is used in spaces where flammable and combustible liquids or vapors are present, such as machinery spaces and paint lockers.

(f) *Waste receptacles.* Waste receptacles must be constructed of noncombustible materials with no openings in the sides or bottom.

(g) *Mattresses.* All mattresses must comply with the U.S. Department of Commerce Standard for Mattress Flammability (FF 4–72.16), 16 CFR part 1632, subpart A. Mattresses must not contain polyurethane foam.

(h) *Furniture and furnishings.* The use of polyurethane foam in furniture and furnishings is prohibited.

§ 177.410 Structural fire protection.

(a) *Cooking areas.* Vertical or horizontal surfaces within 3 feet of cooking appliances must have an ASTM E–84 flame spread rating of not more than 75. Curtains, draperies, or free hanging fabrics must not be fitted within 3 feet of cooking or heating appliances.

(b) *Fiber reinforced plastic.* When the hull, decks, deckhouse, or

superstructure of a vessel is partially or completely constructed of fiber reinforced plastic, including composite construction, the resin used must have an ASTM E–84 flame spread rating of not more than 100.

(c) *Use of general purpose resin.* General purpose resins may be used in lieu of those having an ASTM E–84 flame spread rating of not more than 100 provided that the following additional requirements are met:

(1) *Cooking and heating appliances*—Galleys must be surrounded by B–15 rated fire boundaries. This may not apply to concession stands which are not considered high fire hazards areas (galleys) as long as they do not contain medium to high heat appliances such as deep fat fryers, flat plate type grilles, and open ranges. Open flame systems for cooking and heating are not allowed.

(2) *Sources of ignition*—Electrical equipment and switch boards must be protected from fuel or water sources. Fuel lines and hoses must be located as far as practical from heat sources. Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear of and suitability insulated from any woodwork or other combustible matter. Internal combustion engine dry exhaust systems must be installed in accordance with ABYC Standard P–1.

(3) *Fire detection and extinguishing systems*—Fire detection and extinguishing systems must be installed in compliance with §§ 181.400 through 181.420 of this subchapter. Additionally, all FRP vessels constructed with general purpose resins must be fitted with a smoke activated fire detection system of an approved type, installed in accordance with part 76, subpart 76.27 of this chapter, in all accommodation spaces, all service spaces, and in isolated spaces such as voids and storage lockers that contain an ignition source such as electric equipment or piping for a dry exhaust system.

(4) *Machinery space boundaries*—Boundaries that separate machinery spaces from accommodation spaces, service spaces, and control spaces must be lined with noncombustible panels or insulation approved under § 164.009 of this chapter.

(5) *Furnishings*—Furniture and furnishings must comply with § 116.423 of this chapter.

(d) *Limitations on the use of general purpose resin.*

(1) *Overnight accommodations*—Vessels with overnight passenger accommodations must not be constructed with general purpose resin.

(2) *Gasoline fuel systems*—Vessels with engines powered by gasoline or other fuels having a flash point of 110°F or lower must not be constructed with general purpose resin, except for vessels powered by outboard engines with portable fuel tanks stored in an open area aft, if, as determined by the cognizant OCMI, the arrangement does not produce an unreasonable hazard.

(3) *Cargo*—Vessels carrying or intended to carry hazardous, combustible or flammable cargo must not be constructed with general purpose resin.

Subpart E—Escape Requirements

§ 177.500 Means of escape.

(a) Except as otherwise provided in this section, each space accessible to passengers or used by the crew on a regular basis, must have at least two means of escape, one of which must not be a watertight door.

(b) The two required means of escape must be widely separated and, if possible, at opposite ends or sides of the space to minimize the possibility of one incident blocking both escapes.

(c) Subject to the restrictions of this section, means of escape may include normal exits and emergency exits, passageways, stairways, ladders, deck scuttles, and windows.

(d) The number and dimensions of the means of escape from each space must be sufficient for rapid evacuation in an emergency for the number of persons served. In determining the number of persons served, a space must be considered to contain at least the number of persons as follows:

(1) Passenger overnight accommodation spaces: Designed capacity;

(2) Accommodation spaces having fixed seating for passengers: Maximum seating capacity;

(3) Public spaces, including spaces such as casinos, restaurants, club rooms, and cinemas, and public accommmodation spaces as defined in § 175.400, except overnight accommodation spaces: One person may be permitted for each 10 square feet of deck area. In computing such deck area, the following areas must be excluded:

(i) Obstructions, including stairway and elevator enclosures, elevated stages, bars, and cashier stands, but not including slot machines, tables, or other room furnishings;

(ii) Areas for which the number of persons permitted is determined using the fixed seating criterion;

(iii) Toilets and washrooms;

(iv) Interior passageways less than 34 inches wide and passageways on open deck less than 28 inches wide;

(v) Spaces necessary for handling lifesaving equipment, anchor handling equipment, or line handling gear, or in way of sail booms or running rigging; and

(vi) Bow pulpits, swimming platforms, and areas which do not have a solid deck, such as netting on multi hull vessels;

(4) Crew overnight accommodation spaces: Two-thirds designed capacity; and

(5) Work spaces: Occupancy under normal operating conditions.

(e) The dimensions of a means of escape must be such as to allow easy movement of persons when wearing lifejackets. There must be no protrusions in means of escape which could cause injury, ensnare clothing, or damage lifejackets.

(f) The minimum clear opening of a door or passageway used as a means of escape must not be less than 32 inches in width. The sum of the width of all doors and passageways used as means of escape from a space must not be less than 0.333 inches multiplied by the number of passengers for which the space is designed.

(g) A dead end passageway, or the equivalent, of more than 20 feet in length is prohibited.

(h) [Reserved]

(i) Each door, hatch, or scuttle, used as a means of escape, must be capable of being opened by one person, from either side, in both light and dark conditions. The method of opening a means of escape must be obvious, rapid, and of adequate strength. Handles and securing devices must be permanently installed and not capable of being easily removed. A door, hatch or scuttle must open towards the expected direction of escape from the space served.

(j) A means of escape which is not readily apparent to a person from both inside and outside the space must be adequately marked.

(k) A ladder leading to a deck scuttle may not be used as a means of escape except:

(1) On a vessel of not more than 65 feet in length, a vertical ladder and a deck scuttle may be used as not more than one of the means of escape from a passenger accommodation space; and

(2) As not more than one of the means of escape from any crew accommodation space or work space.

(l) Each ladder used as a means of escape must be mounted at least 7 inches from the nearest permanent object in back of the ladder. Rungs must be:

(1) At least 16 inches in width;

(2) Not more than 12 inches apart, and uniformly spaced for the length of the

ladder with at least 4.5 inches clearance above each rung; and

(m) When a deck scuttle serves as a means of escape, it must not be less than 18 inches in diameter and must be fitted with a quick acting release and a holdback device to hold the scuttle in an open position.

(n) Footholds, handholds, ladders, and similar means provided to aid escape, must be suitable for use in emergency conditions, of rigid construction, and permanently fixed in position, unless they can be folded, yet brought into immediate service in an emergency.

(o) On a vessel of not more than 65 feet in length, a window or windshield of sufficient size and proper accessibility may be used as one of the required means of escape from an enclosed space, provided it:

(1) Does not lead directly overboard;

(2) Can be opened or is designed to be kicked or pushed out; and

(3) Is suitably marked.

(p) Only one means of escape is required from a space where:

(1) The maximum dimension (length, breadth, or depth) of a space is less than 12 feet;

(2) There is no stove, heater, or other source of fire in the space;

(3) The means of escape is located as far as possible from a machinery space or fuel tank; and

(4) If an accommodation space, the single means of escape does not include a deck scuttle or a ladder.

(q) Alternative means of escape from spaces may be provided if acceptable to the cognizant OCMI.

Subpart F—Ventilation

§ 177.600 Ventilation of enclosed and partially enclosed spaces.

(a) An enclosed or partially enclosed space within a vessel must be adequately ventilated in a manner suitable for the purpose of the space.

(b) Ventilation openings serving enclosed or partially enclosed spaces, including openings in ventilation ducts and pipes, ventilators, and louvers, must:

(1) Be above the main deck;

(2) Not penetrate the sideshell or the outboard side of the bulwarks of the vessel;

(3) If located along the inner periphery of bulwarks, be:

(i) Located as high as possible in the side of the cockpit or well; and

(ii) Be not more than 2 inches in height; and

(4) When determined necessary by the OCMI, be fitted with closure devices suitable for preventing the entry of water in adverse weather conditions.

(c) A power ventilation system must be capable of being shut down from the pilot house.

(d) An enclosed crew accommodation space and any other space occupied by a crew member on a regular basis must be ventilated by a power ventilation system, unless natural ventilation in all ordinary weather conditions is satisfactory to the OCMI.

(e) An enclosed passenger accommodation space must be ventilated by a power ventilation system, unless smoking is prohibited and natural ventilation in all ordinary weather conditions is satisfactory to the OCMI.

(f) An exhaust duct over a frying vat or a grill must be fitted with a fire damper that will close automatically in event of a fire.

(g) Electrical wiring, piping, combustibles and other foreign materials are not allowed within ventilation ducts.

§ 177.620 Ventilation of machinery and fuel tank spaces.

In addition to the requirements of this subpart, ventilation systems for spaces containing machinery or fuel tanks must comply with the requirements of part 182 of this subchapter.

Subpart G—Crew Spaces

§ 177.700 General requirements.

(a) A crew accommodation space and a work space must be of sufficient size, adequate construction, and with suitable equipment to provide for the safe operation of the vessel and the protection and accommodation of the crew in a manner practicable for the size, facilities, service, route, speed, and modes of operation of the vessel.

(b) The deck above a crew accommodation space must be located above the deepest load waterline.

§ 177.710 Overnight accommodations.

(a) Overnight accommodations must be provided for all crew members if the vessel is operated more than 12 hours in a 24 hour period, unless the crew is put ashore and the vessel is provided with a new crew.

(b) Overnight accommodations for crew members are required on vessels with crews which remain aboard more than 12 hours in any 24 hour period.

Subpart H—Passenger Accommodations

§ 177.800 General requirements.

(a) All passenger accommodations must be arranged and equipped to provide for the safety of the passengers in consideration of the route, modes of operation, and speed of the vessel.

(b) The height of ceilings in a passenger accommodation space, including aisles and passageways, must be at least 74 inches, but may be reduced at the sides of a space to allow for camber, wiring, ventilation ducts, and piping.

(c) A passenger accommodation space must be maintained to minimize fire and safety hazards and to preserve sanitary conditions. Aisles must be kept clear of obstructions.

(d) A passenger accommodation space must not contain:

(1) Electrical equipment, high temperature parts, pipelines, rotating assemblies, or any other item which could injure a passenger, unless such an item is adequately shielded or isolated; and

(2) A control for operating the vessel, unless the control is so protected and located that operation of the vessel by a crew member will not be impeded by a passenger during normal or emergency operations.

(e) The deck above a passenger accommodation space must be located above the deepest load waterline.

(f) A variation from a requirement of this subpart may be authorized by the cognizant OCMI for an unusual arrangement or design provided there is no significant reduction of space, accessibility, safety, or sanitation.

§ 177.810 Overnight accommodations.

(a) A berth must be provided for each passenger authorized to be carried in overnight accommodation spaces. Each berth must measure at least 74 inches by 24 inches and have at least 24 inches of clear space above.

(b) Berths must not be located more than three high and must be constructed of wood, fiber reinforced plastic, or metal. A berth located more than 60 inches above the deck must be fitted with a suitable aid for access.

(c) The construction and arrangement of berths and other furniture must allow free and unobstructed access to each berth. Each berth must be immediately adjacent to an aisle leading to a means of escape from the accommodation space. An aisle alongside a berth must be at least 24 inches wide. An aisle joining two or more aisles in an overnight accommodation space must be at least 42 inches wide.

§ 177.820 Seating.

(a) A seat must be provided for each passenger permitted in a space for which the fixed seating criterion in § 176.113(b)(3) of this subchapter has been used to determine the number of passengers permitted.

(b) A seat must be constructed to minimize the possibility of injury and avoid trapping occupants.

(c) Installation of seats must provide for ready escape.

(d) Seats, including fixed, temporary, or portable seats, must be arranged as follows:

(1) An aisle of not more than 15 feet in overall length must be not less than 24 inches in width.

(2) An aisle of more than 15 feet in overall length must be not less than 30 inches in width.

(3) Where seats are in rows, the distance from seat front to seat front must be not less than 30 inches and the seats must be secured to a deck or bulkhead.

(4) Seats used to determine the number of passengers permitted, in accordance with § 176.113(b)(3) of this subchapter, must be secured to the deck, bulkhead, or bulwark by permanent or temporary means.

Subpart I—Rails and Guards

§ 177.900 Deck rails.

(a) Except as otherwise provided in this section, rails or equivalent protection must be installed near the periphery of all decks of a vessel accessible to passengers or crew. Equivalent protection may include lifelines, wire rope, chains, and bulwarks, which provide strength and support equivalent to fixed rails. Deck rails must include a top rail with the minimum height required by this section, and lower courses or equivalent protection as required by this section.

(b) Deck rails must be designed and constructed to withstand a point load of 200 pounds (91 kilograms) applied at any point in any direction, and a uniform load of 50 pounds per foot (74 kilograms per meter) applied to the top rail in any direction. The point and uniform loads do not need to be applied simultaneously.

(c) Where space limitations make deck rails impractical for areas designed for crew use only, such as at narrow catwalks in way of deckhouse sides, hand grabs may be substituted.

(d) The height of top rails required by paragraph (a) of this section must be as follows:

(1) Rails on passenger decks of a ferry or a vessel engaged in excursion trips, including but not limited to sightseeing trips, dinner and party cruises, and overnight cruises, must be at least 39.5 inches high.

(2) Rails on a vessel subject to the 1966 International Convention on Loadlines must be at least 39.5 inches high.

(3) All other rails must be at least 36 inches high.

(4) While engaged in big game angling, the minimum rail height may be reduced to not less than 30 inches in way of a person using specialized angling techniques or equipment, such as when using a pedestal mounted fixed fighting chair on a low freeboard vessel, if it can be shown that a higher rail would interfere with the fishing operation and the lower rail would not significantly reduce safety. A rail complying with the requirements of paragraphs (d) (1), (2), or (3) of this section as applicable must be installed when big game angling is not being conducted.

(e) Where the principal business of the vessel requires the discharge of persons or cargo in a seaway, such as on pilot boats and dive boats, the cognizant OCMI may accept alternatives to the rails required in paragraphs (d) (1), (2), and (3) of this section for those areas of a deck where passengers or cargo are discharged and for which removable rails, lifelines, or chains would hinder discharge operations.

(f) A sailing vessel, an open boat, or any other vessel not specifically covered elsewhere in this section, must have rails of a minimum height or equivalent protection as considered necessary by the cognizant OCMI, based on the vessel's operation, route, and seating arrangement.

(g) Rail courses or equivalent must be installed between a top rail required by paragraph (a) of this section, and the deck so that no open space exists which is more than 12 inches high except:

(1) On passenger decks of a ferry or of a vessel on an excursion trip the following must be installed:

(i) Bulwarks;

(ii) Chain link fencing or wire mesh which has openings of not more than 4 inches in diameter; or

(iii) Bars, slats, rail courses, or an equivalent spaced at intervals of not more than 4 inches.

(2) On a vessel subject to the 1966 International Convention on Loadlines, rail courses, or an equivalent, must be installed so that there is not an open space higher than 9 inches from the deck to the first rail course or equivalent.

(h) Rails must be permanently installed except that the following rails may be removable:

(1) Rails in way of embarkation stations and boarding locations;

(2) Rails over 30 inches high in way of fishing seats addressed by paragraph (d)(4) of this section; and

(3) Rails on a vessel when the service of the vessel is routinely changed, as determined by the cognizant OCMI, and the required top rail height varies depending on the service of the vessel at a particular time.

§ 177.920 Storm rails.

Suitable storm rails or hand grabs must be installed where necessary in passageways, at deckhouse sides, and at ladders and hatches.

§ 177.940 Guards in vehicle spaces.

On a vessel authorized to carry one or more vehicles, suitable chains, cables, or other barriers must be installed at the end of each vehicle runway. In addition, temporary rails or equivalent protection must be installed in way of each vehicle ramp, in compliance with § 177.900, when the vessel is underway.

§ 177.960 Guards for exposed hazards.

An exposed hazard, such as gears or rotating machinery, must be properly protected by a cover, guard, or rail.

§ 177.970 Protection against hot piping.

Piping, including valves, pipe fittings and flanges, conveying vapor, gas, or liquid, the temperature of which exceeds 150°F, must be suitably insulated where necessary to prevent injuries.

Subpart J—Window Construction and Visibility

§ 177.1010 Safety glazing materials.

Glass and other glazing material used in windows must be of material which will not break into dangerous fragments if fractured.

§ 177.1020 Strength.

Each window, port hole, and its means of attachment to the hull or deck house, must be capable of withstanding the maximum load from wave and wind conditions expected due to its location on the vessel and the authorized route of the vessel.

§ 177.1030 Operating station visibility.

(a) Windows and other openings at the operating station must be of sufficient size and properly located to provide an adequate view for safe navigation in all operating conditions.

(b) Glass or other glazing material used in windows at the operating station must have a light transmission of not less than 70 percent according to Test 2 of ANSI Z 26.1, and must comply with Test 15 of ANSI Z 26.1 for Class I Optical Deviation.

PART 178—INTACT STABILITY AND SEAWORTHINESS

Subpart A—General Provision

Sec.

178.115 Applicability to existing vessels.

Subpart B—Stability Instructions for Operating Personnel

178.210 Stability information.
178.220 Stability booklet.
178.230 Stability letter or Certificate of Inspection stability details.

Subpart C—Intact Stability Standard

178.310 Applicability based on length, passenger capacity, and propulsion.
178.320 Intact stability requirements for mechanically propelled and nonself-propelled vessels.
178.325 Intact stability requirements for a sailing vessel.
178.330 Simplified stability proof test.
178.340 Stability standards for pontoon vessels on protected waters.

Subpart D—Drainage of Weather Deck

178.410 Drainage of flush deck vessels.
178.420 Drainage of cockpit vessels.
178.430 Drainage of well deck vessels.
178.440 Drainage of open boats.
178.450 Calculation of drainage area of cockpit and well deck vessels.

Subpart E—Special Installations

178.510 Ballast.

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 178.115 Applicability to existing vessels.

An existing vessel must comply with the intact stability and seaworthiness regulations which were applicable to the vessel on [date of the day before the effective date of the final rule] or, as an alternative, the vessel may comply with the regulations in this part.

Subpart B—Stability Instructions for Operating Personnel

§ 178.210 Stability information.

(a) Stability information (stability details indicated on the Certificate of Inspection, a stability letter, or a stability booklet) is required on certain vessels by paragraphs (b) or (c) of this section. Enough stability information must be provided for the master to have sufficient understanding of operating guidelines, loading restrictions, and stability calculations (and assumptions used in making them), to be able to ensure compliance with the applicable intact and damage stability regulations of this chapter.

(b) A vessel which, under § 178.310, must comply with requirements of subchapter S of this chapter, must have stability details on the vessel's Certificate of Inspection, a stability letter issued by the cognizant OCMI or the Commanding Officer, Marine Safety Center, or an approved stability booklet. The form in which the stability information must be contained (i.e., stability details on the Certificate of Inspection, a stability letter, or a stability booklet) will be determined by the Commanding Officer, U.S. Coast Guard Marine Safety Center.

(c) When necessary for safe operation, the cognizant OCMI may place specific stability restrictions in a stability letter or on the Certificate of Inspection of a vessel of not more than 65 feet in length, which, under § 178.310, must comply with the requirements of § 178.320.

§ 178.220 Stability booklet.

When the Commanding Officer, Marine Safety Center determines, in accordance with § 178.210(b), that a vessel must have a stability booklet, the owner or operator must prepare the booklet in accordance with subchapter S of this chapter, and submit it through the cognizant OCMI for approval by the Commanding Officer, Marine Safety Center.

§ 178.230 Stability letter or Certificate of inspection stability details.

(a) When the cognizant OCMI or the Commanding Officer, Marine Safety Center determines, in accordance with § 178.210, that a vessel must have stability details indicated on its Certificate of Inspection or a stability letter, the owner or operator must submit the information listed in paragraph (b) of this section:

(1) If § 178.210(c) is applicable, to the OCMI for approval; or

(2) If § 178.210(b) is applicable, to the Commanding Officer, Marine Safety Center for his or her approval.

(b) The following applicable information, and the necessary calculations used to determine that information, must be submitted as required by paragraph (a) of this section:

(1) Allowable number of passengers and crew on each deck;

(2) Deepest waterline drafts or freeboard;

(3) Location of watertight bulkheads and openings in watertight bulkheads;

(4) Explanation of the vessel's subdivision and specific identification of the vessel's subdivision bulkheads;

(5) Location of openings through watertight bulkheads, such as watertight doors, which must be closed to limit flooding in an emergency;

(6) Location, type and amount of fixed ballast;

(7) Location and details of foam flotation material; and

(8) Maximum weight of portable equipment permitted on the vessel including diving equipment.

Subpart C—Intact Stability Standards

§ 178.310 Applicability based on length, passenger capacity, and propulsion.

(a) A vessel of not more than 65 feet in length must meet the applicable requirements of §§ 178.320 or 178.325, or of §§ 170.170, 170.173, and 171.050 of subchapter S of this chapter, if:

(1) Carrying not more than 150 passengers on a domestic voyage;

(2) Carrying not more than 12 passengers on an international voyage; or

(3) It has not more than one deck above the bulkhead deck, exclusive of a pilot house.

(b) The following vessels must meet the appropriate requirements of §§ 170.170, 170.173, 171.050, 171.055, and 171.057 of subchapter S of this chapter:

(1) A vessel of more than 65 feet in length;

(2) A sailing vessel of more than 65 feet in length;

(3) A vessel carrying more than 12 passengers on an international voyage; and

(4) A vessel with more than 1 deck above the bulkhead deck exclusive of a pilot house.

§ 178.320 Intact stability requirements for mechanically propelled and nonself-propelled vessels.

(a) A vessel, except a pontoon vessel operating on protected waters, must undergo a simplified stability proof test in accordance with § 178.330 in the presence of a Coast Guard marine inspector.

(b) A pontoon vessel operating on protected waters must undergo a simplified stability proof test in accordance with § 178.340 in the presence of a Coast Guard marine inspector.

(c) The cognizant OCMI may dispense with the simplified stability proof test in § 178.330 for a vessel carrying not more than 49 passengers where it can be established that, due to the form, arrangement, construction, number of decks, route, and operating restrictions of the vessel, the vessel's stability can be safely determined without such a test. Vessels which carry deck cargo must undergo a simplified stability proof test.

(d) A vessel whose stability is questioned by the cognizant OCMI must be shown by design calculations to meet the applicable stability criteria of §§ 170.170, 170.173, and 171.050 of this chapter in each condition of loading and operation.

(e) A simplified stability proof test is conducted to determine if a vessel, as built and operated, has a minimum level of initial stability. Failure of the simplified test does not necessarily mean that the vessel lacks stability for the intended route, service, and operating condition, but that calculations or other methods must be used to evaluate the stability of the vessel.

§ 178.325 Intact stability requirements for a sailing vessel.

(a) Except as provided in paragraphs (b), (c) and (e) of this section, each sailing vessel must undergo a simplified stability proof test in accordance with § 178.330 in the presence of a Coast Guard marine inspector.

(b) Each of the following sailing vessels must meet the intact stability standards of §§ 170.170 and 171.055 of this subchapter:

(1) A vessel to be operated in exposed waters;

(2) A vessel to be operated during non-daylight hours;

(3) A vessel of unusual type, rig, or hull form, including vessels without a weathertight deck, such as open boats;

(4) A vessel that carries more than 49 passengers;

(5) A sailing school vessel that carries a combined total of six or more sailing school students or instructors;

(6) A vessel on which downflooding occurs at angles of 60° or less; and

(7) A vessel which has a cockpit longer than LOD/5.

(c) A catamaran must meet the intact stability requirements of §§ 170.170 and 171.057 of this subchapter.

(d) A cockpit on a sailing vessel which is not listed in paragraph (b) or (c) of this section and which operates on partially protected waters must be self-bailing.

(e) The cognizant OCMI may perform operational tests to determine whether the vessel has adequate stability and satisfactory handling characteristics under sail for protected waters or partially protected waters, in lieu of conducting a simplified stability proof test.

(f) Commanding Officer, Marine Safety Center, may prescribe additional or different stability requirements for a broad, shallow draft vessel with little or no ballast outside the hull.

§ 178.330 Simplified stability proof test.

(a) A vessel must be in the condition specified in this paragraph when a simplified stability proof test is performed.

(1) The construction of the vessel must be complete in all respects.

(2) Ballast, if necessary, must be in compliance with § 178.510 and must be on board and in place.

(3) Each fuel and water tank must be approximately three-quarters full.

(4) A weight equal to the total weight of all passengers, crew, and other loads permitted on the vessel must be onboard and distributed so as to provide normal operating trim and to simulate the vertical center of gravity causing the least stable condition that is likely to occur in service. Unless otherwise specified, weight and vertical center of gravity is assumed to be as follows:

(i) The weight of primary lifesaving equipment should be simulated at its normal location, if not on board at the time of the test;

(ii) The weight of one person is considered to be 160 pounds except the weight of one person is considered to be 140 pounds if the vessel always carries only women and children, and operates exclusively on protected waters;

(iii) The vertical center for the simulated weight of passengers, crew, and other loads must be at least 2.5 feet above the deck; and

(iv) If the vessel carries passengers on diving excursions, the total weight of diving gear must be included in the test as follows:

(A) The total weight of individual diving gear for each passenger carried is assumed to be 80 pounds, which includes the weight of scuba tanks, harness, regulator, weight belt, wet suit, mask, and other personal diving equipment;

(B) The weight of any air compressors carried; and

(C) Other portable equipment carried.

(5) All non-return closures on cockpit scuppers or on weather deck drains must be kept open during the test.

(b) A vessel must not exceed the limitations in paragraph (d) of this section, when subjected to the greater of the following heeling moments:

$M_p = (W)(B)/6$; or

$M_w = (P)(A)(H)$

where:

M_p=passenger heeling moment in foot-pounds (kilogram-meters);

W=the total passenger weight using 160 pounds (72.6 kilograms) per passenger, or, if the vessel will always carry women and children and operate exclusively on protected waters, 140 pounds (63.5 kilograms) per passenger may be used;

B=the maximum transverse distance in feet (meters) of a deck that is accessible to passengers;

M_w=wind heeling moment in foot-pounds (kilogram-meters);

P=wind pressure of:

(1) 7.5 pounds/square foot (36.6 kilograms/square meter) for operation on protected waters;

(2) 10.0 pounds/square foot (48.8 kilograms/square meter) for operation on partially protected waters; or

(3) 15.0 pounds/square foot (73.3 kilograms/square meter) for operation on exposed waters.

A=area, in square feet (square meters), of the projected lateral surface of the vessel above the waterline (including each projected area of the hull, superstructure and area bounded by railings and structural canopies). For sailing vessels this is the bare poles area, or, if the vessel has no auxiliary power, with storm sails set.

H=height, in feet (meters), of the center of area (A) above the waterline, measured up from the waterline.

(c) For sailing vessels the heeling moment used for this test must be the greater of the following:

(1) Passenger heeling moment from paragraph (b) of this section.

(2) Wind heeling moment from paragraph (b) of this section.

(3) Wind heeling moment calculated from the wind heeling moment equation in paragraph (b) of this section, where:

M_w=wind heeling moment in foot-pounds (kilogram-meters).

A=the windage area of the vessel in square feet (square meters) with all sails set and trimmed flat.

H=height, in feet (meters), of the center of effort of area (A) above the waterline, measured up from the waterline.

P=1.0 pounds/square foot (4.9 kilograms/square meter) for both protected and partially protected waters.

(d) A vessel must not exceed the following limits of heel:

(1) On a flush deck vessel, not more than one-half of the freeboard may be immersed.

(2) On a well deck vessel, not more than one-half of the freeboard may be immersed, except that, on a well deck vessel that operates on protected waters and has non-return scuppers, the full freeboard may be immersed if the full freeboard is not more than one-quarter of the distance from the waterline to the gunwale.

(3) On a cockpit vessel, the maximum allowable immersion is calculated from the following equation:

(i) On exposed waters—

$i = f(2L - 1.5L')/4L$

(ii) On protected or partially protected waters—

$i=f(2L-L')/4L$

where:

i=maximum allowable immersion in feet (meters);
f=freeboard in feet (meters);
L=length of the weather deck, in feet (meters); and
L'=length of cockpit in feet (meters).

(4) On an open boat, not more than one quarter of the freeboard may be immersed.

(5) On a flush deck sailing vessel, the full freeboard may be immersed.

(6) In no case may the angle of heel exceed 14 degrees.

(e) The limits of heel must be measured at:

(1) The point of minimum freeboard; or

(2) At a point three-quarters of the vessel's length from the bow if the point of minimum freeboard is aft of this point.

(f) When demonstrating compliance with paragraph (d) of this section, the freeboard must be measured as follows:

(1) For a flush deck or well deck vessel, the freeboard must be measured to the top of the weatherdeck at the side of the vessel; and

(2) For a cockpit vessel or for an open boat, the freeboard must be measured to the top of the gunwale.

(g) A ferry must also be tested in a manner acceptable to the cognizant OCMI to determine whether the trim or heel during loading or unloading will submerge the deck edge. A ferry passes this test if with the total number of passengers and the maximum vehicle weight permitted onboard, the deck edge is not submerged during loading or unloading of the vessel.

§ 178.340 Stability standards for pontoon vessels on protected waters.

(a) The portion of the deck accessible to passengers on a pontoon vessel must not extend beyond the outboard edge of either pontoon, nor beyond the forward or aft ends of the pontoons.

(b) A pontoon vessel that has more than 2 pontoons or has decks higher than 6 inches above the pontoons must meet a stability standard acceptable to the Commanding Officer, Marine Safety Center.

(c) A pontoon vessel must be in the condition described in § 178.330(c) when the simplified stability proof test is performed, except that the simulated load of passengers, crew, and other weights is initially centered on the vessel so that trim and heel are minimized.

(d) A pontoon vessel has the minimum acceptable level of initial stability if it meets the following:

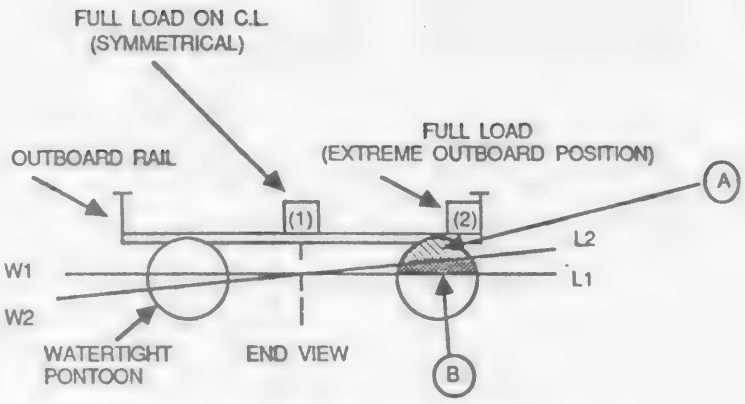
(1) With the simulated load located at the extreme outboard position of the deck on the side with the least initial freeboard, the remaining exposed cross sectional area of the pontoon on that side must be equal to or greater than the cross sectional area submerged due to the load shift, as indicated in figure 178.340(d)(1); and

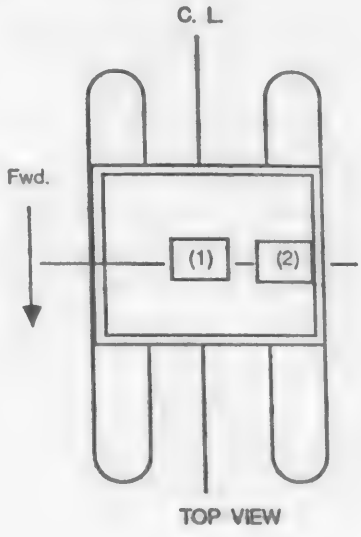
(2) With the simulated load located on the centerline at the extreme fore or aft end of the deck, whichever position is further from the initial position of the load, the top of the pontoon must not be submerged at any location, as indicated in figure 178.340(d)(2).

BILLING CODE 4910-14-P

Figure 178.340(d)(1)

TRANSVERSE STABILITY STANDARD





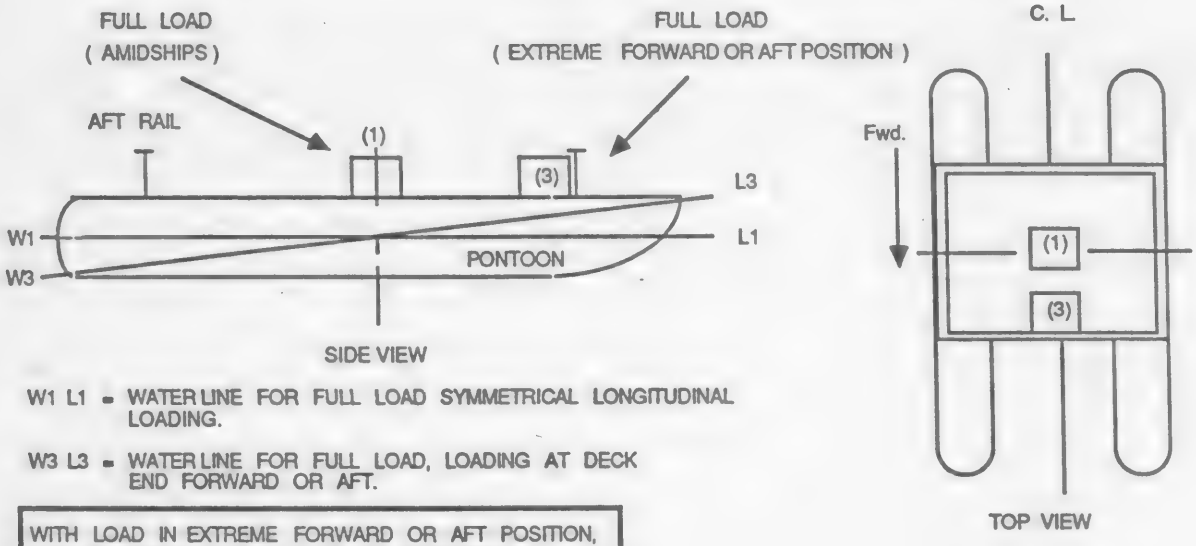
W1 L1 = WATER LINE FOR FULL LOAD SYMMETRICAL, ATHWARTSHIP LOADING.

W2 L2 = WATER LINE FOR FULL LOAD, EXTREME OUTBOARD LOADING.

WITH LOAD IN EXTREME OUTBOARD POSITION, POSITION (2), AREA (A) MUST BE EQUAL TO OR GREATER THAN AREA (B).

Figure 178.340(d)(2)

LONGITUDINAL STABILITY STANDARD



W1 L1 = WATER LINE FOR FULL LOAD SYMMETRICAL LONGITUDINAL LOADING.

W3 L3 = WATER LINE FOR FULL LOAD, LOADING AT DECK END FORWARD OR AFT.

WITH LOAD IN EXTREME FORWARD OR AFT POSITION, TOP OF PONTOON MUST NOT BE SUBMERGED.

BILLING CODE 4910-14-C

Subpart D—Drainage of Weather Decks

§ 178.410 Drainage of flush deck vessels.

(a) Except as provided in paragraph (b) of this section, the weather deck on a flush deck vessel must be watertight and have no obstruction to overboard drainage.

(b) Each flush deck vessel may have solid bulwarks in the forward one-third length of the vessel if:

(1) The bulwarks do not form a well enclosed on all sides; and

(2) The foredeck of the vessel has sufficient sheer to ensure drainage aft.

§ 178.420 Drainage of cockpit vessels.

(a) Except as follows, the cockpit on a cockpit vessel must be watertight:

(1) A cockpit may have companionways if the companionway openings have watertight doors, or weathertight doors and coamings which meet § 179.360 of this subchapter.

(2) A cockpit may have ventilation openings along its inner periphery if the vessel operates only on protected or partially protected waters.

(b) The cockpit deck of a cockpit vessel that operates on exposed or partially protected waters must be at least 10 inches above the deepest load waterline unless the vessel complies with:

(1) The intact stability requirements of §§ 170.170, 170.173, 171.050, 171.055, and 171.057 of this chapter;

(2) The Type II subdivision requirements in §§ 171.070, 171.072, and 171.073 of this chapter; and

(3) The damage stability requirements in § 171.080 of this chapter.

(c) The cockpit deck of a cockpit vessel that does not operate on exposed or partially protected waters must be located as high above the deepest load waterline as practicable.

(d) The cockpit must be self-bailing. Scuppers for the cockpit deck of a cockpit vessel must:

(1) Be located to allow rapid clearing of water in all probable conditions of list and trim;

(2) Have a combined drainage area of at least the area required by § 178.450; and

(3) If the deck is less than 10 inches above the deepest load waterline of the vessel, be fitted with non-return valves.

§ 178.430 Drainage of well deck vessels.

(a) The weather deck on a well deck vessel must be watertight.

(b) The area required on a well deck vessel for drainage of the well formed by the bulwarks must be determined as required by this paragraph.

(1) If a vessel operates on exposed or partially protected waters, it must have at least 100 percent of the drainage area required by § 178.450.

(2) If a vessel operates only on protected or partially protected waters, it must have at least 50 percent of drainage area required by § 178.450 if the vessel meets the following requirements for a vessel that operates on exposed waters:

(i) The intact stability requirements of §§ 170.170, 170.173, 171.050, 171.055 and 171.057 of this chapter;

(ii) The Type II subdivision requirements of §§ 171.070, 171.072, and 171.073 of this chapter; and

(iii) The damage stability requirements of § 171.080 of this chapter.

(c) The freeing ports or scuppers on a well deck vessel must be located to allow rapid clearing of water in all probable conditions of list and trim.

(d) The deck of a well deck vessel that operates on exposed or partially protected waters must be at least 10 inches above the deepest load waterline unless the vessel complies with:

(1) The intact stability requirements of §§ 170.170, 170.173, 171.050, 171.055, and 171.057 of this chapter;

(2) The Type II subdivision requirements in §§ 171.070, 171.072, and 171.073 of this chapter; and

(3) The damage stability requirements in § 171.080 of this chapter.

§ 178.440 Drainage of open boats.

The deck within the hull of an open boat must drain to the bilge. Overboard drainage of the deck is not permitted.

§ 178.450 Calculation of drainage area for cockpit and well deck vessels.

The drainage area required on a vessel must be computed using the following formula:

Required drainage area in inch^2=Volume Factor×Effective Deck Area where:

Volume Factor=0.1 for all vessels operating on protected waters, or

=0.8b^2/(b+f−K), but not less than 0.1, for all vessels operating on exposed and partially protected waters, where:

b=average height in feet of the bulwark above the deck;

f=height of the freeboard above the deepest waterline in feet as determined in accordance with § 178.330(h); and K=3.0 feet for vessels operating on exposed waters and 2.0 feet for vessels operating on partially protected waters; and

Effective Deck Area=D−H

Where:

D=total deck area of the cockpit or well deck measured in feet^2, including the deck area of the superstructure; and

H=any area of weathertight superstructure within the cockpit or well deck area which meets the requirements of § 179.360 of this subchapter, measured in feet^2 which extends vertically at least as high as the deck in which the cockpit is located or the top of the bulwark which forms the well.

Subpart E—Special Installations

§ 178.510 Ballast.

(a) Any solid fixed ballast used to comply with the requirements of parts 170, 171, 178, and 179 of this chapter must be:

(1) Stowed in a manner that prevents shifting of the ballast; and

(2) Installed to the satisfaction of the cognizant OCMI.

(b) Solid fixed ballast may not be located forward of the collision bulkhead unless the installation and arrangement of the ballast and the collision bulkhead minimizes the risk of the ballast penetrating the bulkhead in a collision.

(c) Solid fixed ballast may not be removed from a vessel or relocated unless approved by the cognizant OCMI except that ballast may be temporarily moved for a vessel examination or repair if it is replaced to the satisfaction of the OCMI.

(d) Water ballast, either as an active system or permanent, must be approved by the Commanding Officer, Marine Safety Center.

PART 179—SUBDIVISION, DAMAGE STABILITY AND WATERTIGHT INTEGRITY REQUIREMENT

Subpart A—General Provision

Sec.

179.115 Applicability to existing vessels.

Subpart B—Subdivision and Damage Stability Requirements

179.210 Collision bulkhead.
179.212 Watertight bulkheads for subdivision.
179.220 Location of watertight bulkheads for subdivision.
179.230 Damage stability requirements.
179.240 Foam flotation material.

Subpart C—Watertight Integrity Requirements

179.310 Collision bulkheads.
179.320 Watertight bulkheads.
179.330 Watertight doors.
179.340 Trunks.
179.350 Openings in the side of a vessel below the bulkhead or weather deck.
179.360 Watertight integrity.

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p.277; 49 CFR 1.46.

Subpart A—General Provisions

§ 179.115 Applicability to existing vessels.

An existing vessel must comply with the subdivision, damage stability, and watertight integrity regulations which were applicable to the vessel on {*date of the day before the effective date of the final rule*} or, as an alternative, the vessel may comply with the regulations in this part.

Subpart B—Subdivision and Damage Stability Requirements

§ 179.210 Collision bulkhead.

(a) A vessel of more than 65 feet in length must have a collision bulkhead.

(b) A vessel of not more than 65 feet in length must have a collision bulkhead if it:

(1) Carries more than 49 passengers;

(2) Operates on exposed waters; or

(3) Is of more than 40 feet in length and operates on partially protected waters.

(c) A double-ended ferry required to have a collision bulkhead must have a collision bulkhead at each end of the vessel.

§ 179.212 Watertight bulkheads for subdivision.

(a) A vessel of not more than 65 feet in length, carrying more than 49 passengers, must comply with § 179.220, except that, if designed to comply with the intact stability requirements of §§ 170.170, 170.173, 171.050 and 171.055 of this chapter, the vessel must comply with the Type II subdivision requirements of §§ 171.070 through 171.073 of this chapter.

(b) A vessel of more than 65 feet in length must comply with the Type II subdivision requirements of §§ 171.070 through 171.073 of this chapter.

(c) A vessel that carries more than 12 passengers on an international voyage must meet the Type II subdivision requirements of §§ 171.070 through 171.073 of this chapter.

§ 179.220 Location of watertight bulkheads for subdivision.

(a) The maximum distance between adjacent main transverse watertight bulkheads on a vessel, required by § 179.212(a) to comply with this section, must not be more than the smaller of the following:

(1) One third of the length of the bulkhead deck; or

(2) The distance given by the following equation:

l=((F)(f)(L))/D

Where:

l=the maximum length of the bulkhead deck in feet between adjacent main transverse watertight bulkheads;

f=the effective freeboard in feet calculated for each pair of adjacent bulkheads in accordance with paragraph (b) of this section;

L=vessel length in feet;

F=the floodable length factor from Table 179.220.

D=the depth in feet, measured amidships at a point one-quarter of the maximum beam out from the centerline, from the inside of the bottom planking or plating to the level of the top of the bulkhead deck at side as shown in Figure 179.220(a).

TABLE 179.220—TABLE OF FLOODABLE LENGTH FACTORS

(d/L)×100	F
0–15	0.33
20	0.34
25	0.36
30	0.38
35	0.43
40	0.48
45	0.54
50	0.61
55	0.63
60	0.58
65	0.53
70	0.48
75	0.44
80	0.40
85	0.37
90–100	0.34

(1) Where:

d=distance in feet from the midpoint of the compartment to the forwardmost point on the bulkhead deck excluding sheer.

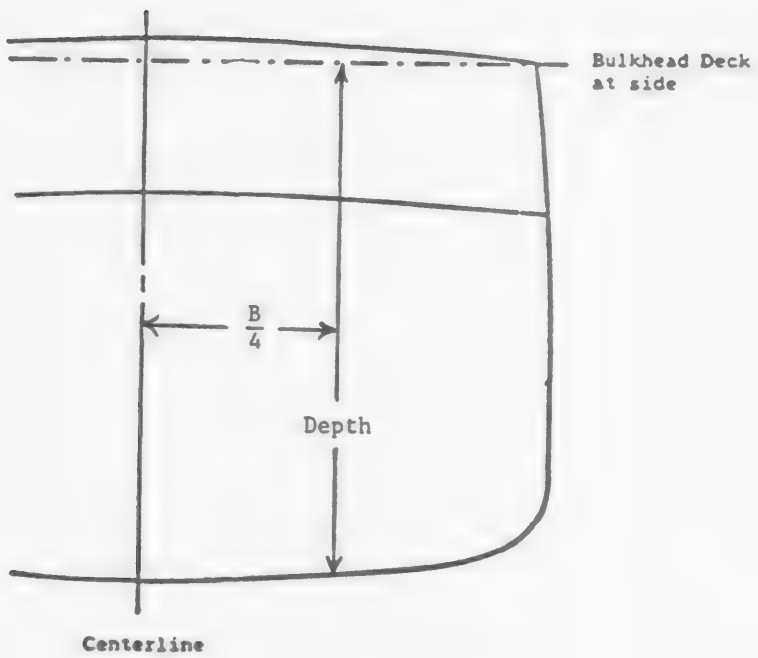
L=vessel length in feet measured over the bulkhead deck.

(2) Intermediate values of floodable length factor may be obtained by interpolation.

BILLING CODE 4910-15-P

Figure 179.220(a)

Transverse Location for Measuring Depth (D)



BILLING CODE 4910-14-C

(b) The effective freeboard for each compartment is calculated by the following equation: f=(a+b)/2

Where:

f=the effective freeboard in feet.

a=the freeboard in feet measured:

(1) At the forward main transverse watertight bulkhead; and

(2) From the deepest waterline to:

(i) The top of the bulkhead deck on a flush deck vessel; or

(ii) If a vessel has a stepped bulkhead deck, the line shown in Figure 179.220(b); or

(iii) If a vessel has an opening port light below the bulkhead deck, the line shown in Figure 179.220(c).

b=the freeboard in feet measured:

(1) At the aft main transverse watertight bulkhead; and

(2) From the deepest waterline to:

(i) The top of the bulkhead deck on a flush deck vessel; or

(ii) If a vessel has a stepped bulkhead deck, the line shown in Figure 179.220(b)(1); or

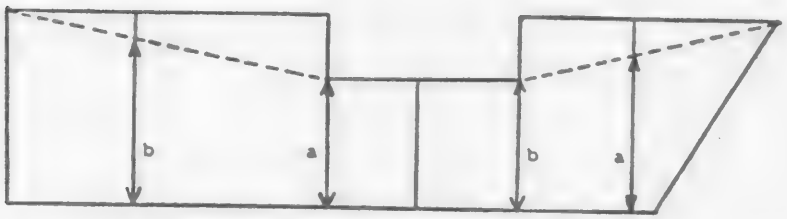
(iii) If a vessel has an opening port light below the bulkhead deck, the line shown in Figure 179.220(b)(2).

BILLING CODE 4910-14-P

Figure 179.220(b)(1)

Freeboard Measurement-

Vessel with a Stepped Bulkhead Deck



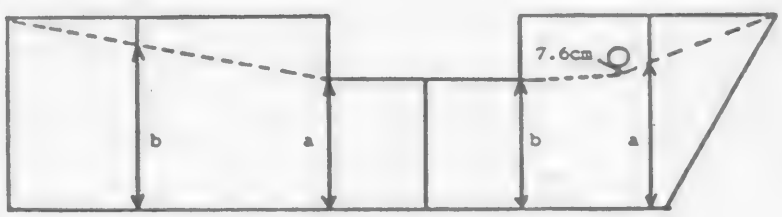
(a and b shown for two sample compartments)

Figure 179.220 (b)(2)

Freeboard Measurement-

Vessel with a Stepped Bulkhead Deck and

a Port Light Below the Bulkhead Deck



(a and b shown for two sample compartments)

BILLING CODE 4910-14-C

§ 179.230 Damage stability requirements.

A vessel which, in accordance with § 179.212(b), must meet the requirements of §§ 171.070 through 171.073 of this chapter for Type II subdivision must meet the damage stability requirements of § 171.080 of this chapter.

§ 179.240 Foam flotation material.

(a) Foam may only be installed as flotation material on a vessel of not more than 65 feet in length, when approved by the cognizant OCMI.

(b) If foam is installed as flotation material on a vessel, the owner shall ensure that the following tests are conducted and requirements are met, to the satisfaction of the cognizant OCMI:

(1) All foam must comply with MIL–P–21929B, including the requirements for fire resistance;

(2) Foam may be installed only in void spaces that are free of ignition sources, unless the foam complies with the requirements of 33 CFR 183.114;

(3) Foam may be installed adjacent to fuel tanks only if the boundary between the tank and the space has doubled continuous fillet welds;

(4) The structure enclosing the foam must be strong enough to accommodate the buoyancy of the foam;

(5) Piping and cables must not pass through foamed spaces unless they are within piping and cable ways accessible from both ends;

(6) Blocked foam must:

(i) Be used in each area that may be exposed to water; and

(ii) Have a protective cover, approved by the cognizant OCMI, to protect it from damage;

(7) A water submergence test must be conducted on the foam for a period of at least 7 days to demonstrate to the satisfaction of the cognizant OCMI that the foam has adequate strength to withstand a hydrostatic head equivalent to that which would be imposed if the vessel were submerged to its bulkhead deck;

(8) The effective buoyancy of the foam must be determined at the end of the submergence test required by paragraph (b)(7) of this section. The effective buoyancy or 55 pounds per cubic foot, whichever is less, must be used in determining the location of watertight bulkheads for subdivision required by § 179.212; and

(9) The owner or operator must obtain sample foam specimens during installation of the foam and determine the density of the installed foam.

Subpart C—Watertight Integrity Requirements

§ 179.310 Collision bulkheads.

(a) Each collision bulkhead required by § 179.210, must be constructed in accordance with § 179.320, except that a collision bulkhead:

(1) Must extend to the weather deck or to one deck above the bulkhead deck, whichever is lower, for service on oceans or coastwise routes, and

(2) Must not be fitted with any type of penetration or opening except penetrations may be made if they are located as high and as far inboard as practicable and they have a means to make them watertight.

(b) The forward collision bulkhead required to be on a vessel by § 179.210 must be:

(1) Located at least 5 percent but not more than 15 percent of the LBP aft of the forward perpendicular, or for vessels with bulbous bows extending forward of the forward perpendicular and contributing more than 2 percent of the underwater volume of the vessel, located at least 5 percent but not more than 15 percent of the LBP aft of the mid-length of such extension; and

(2) Installed in a single plane, with no recess or step, up to the bulkhead deck;

(c) The after collision bulkhead on a double-ended ferry of more than 65 feet in length must be:

(1) At least 5 percent but not more than 15 percent of the LBP forward of the after perpendicular; and

(2) Installed in a single plane, with no recess or step, at least up to the bulkhead deck.

§ 179.320 Watertight bulkheads.

(a) Each watertight bulkhead must be of sufficient strength to be capable of remaining watertight with a head of water to the top of the bulkhead.

(b) Each watertight bulkhead must extend to the bulkhead deck and be installed in one plane without steps or recesses insofar as is reasonable and practicable. Any steps or recesses permitted must comply with the applicable subdivision requirements in this subchapter.

(c) The number of penetrations in a watertight bulkhead must be minimized. A penetration in a watertight bulkhead must be as high and as far inboard in the bulkhead as practicable, and made watertight.

(d) Sluice valves are not permitted in watertight bulkheads.

§ 179.330 Watertight doors.

(a) Except as permitted in paragraph (b) of this section, hinged watertight doors are not permitted in bulkheads required by §§ 179.210 or 179.212 unless the vessel will not proceed more than 20 nautical miles (37 kilometers) from shore and:

(1) The door separates a machinery space from an accommodation space and, in the judgment of the cognizant OCMI, the door will be kept closed except when a person is passing through the door; or

(2) The Commandant determines that, due to the arrangements of the vessel, the door will be kept closed except when a person is passing through the door.

(b) Watertight doors are permitted in any bulkhead, except the collision bulkhead, on a vessel that operates only in the offshore oil industry.

(c) A hinged watertight bulkhead door must be fitted with a quick action closing device operable from both sides of the door and indicator lights at the operating station showing whether the door is open or closed.

(d) Sliding watertight doors must meet the requirements of part 170, subpart H of this chapter.

(e) No more than one watertight door may be fitted in a watertight bulkhead, and it must be located as high and as far inboard as practicable.

§ 179.340 Trunks.

Where a trunk, i.e., an enclosed passageway through a deck or bulkhead, is installed, it must comply with the requirements of § 179.360(a)(1) and with the requirements of § 171.113 of this chapter.

§ 179.350 Openings in the side of a vessel below the bulkhead or weather deck.

(a) On a vessel operating on exposed or partially protected waters, an opening port light is not permitted below the weather deck unless the sill of the port light is at least 30 inches above the deepest load waterline.

(b) A port light must have an inside, hinged dead cover regardless of whether the port light is or is not capable of being opened.

(c) Except for engine exhausts, each inlet or discharge pipe that penetrates the hull below a line drawn parallel to and at least 6 inches above the deepest load waterline must have means to prevent water from entering the vessel if the pipe fractures or otherwise fails.

(d) A positive action valve or cock that is located as close as possible to the hull is an acceptable means for complying with paragraph (c) of this section.

(e) If an inlet or discharge pipe is inaccessible, the means for complying with paragraph (c) of this section must be a shutoff valve that is:

(1) Operable from the weather deck or any other accessible location above the bulkhead deck; and

(2) Labeled at the operating point for identity and direction of closing.

(f) Any connecting device or valve in a hull penetration must not be cast iron.

(g) Each plug cock in an inlet or discharge pipe must have a means, other than a cotter pin, to prevent its loosening or removal from the body.

§ 179.360 Watertight integrity.

(a) A hatch exposed to the weather must be watertight, except that the following hatches may be weathertight:

(1) A hatch on a watertight trunk that extends at least 12 inches above the weather deck;

(2) A hatch in a cabin top; and

(3) A hatch on a vessel that operates only on protected waters.

(b) A hatch cover must: (1) Have securing devices; and

(2) Be attached to the hatch frame or coaming by hinges, captive chains, or other devices of substantial strength to prevent its loss.

(c) A hatch cover that provides access to accommodation spaces must be operable from either side.

(d) A weathertight door must be provided for each opening located in a deck house or companionway. Permanent watertight coamings must be provided as follows:

(1) On a vessel on an exposed or partially protected route, a watertight coaming with a height of at least 6 inches must be provided under each weathertight door in a cockpit or a well, or on the main deck of a flush deck vessel.

(2) On a vessel on a protected route, a watertight coaming with a height of at least 3 inches must be provided under each weathertight door in a cockpit or a well.

(3) The height of the watertight coaming for a hinged watertight door need only be sufficient to accommodate the door.

PART 180—LIFESAVING EQUIPMENT AND ARRANGEMENTS

Subpart A—General Provisions

Sec.

180.10 Applicability to vessels on an international voyage.
180.15 Applicability to existing vessels.
180.25 Additional requirements.

Subpart B—Emergency Communications

180.64 Emergency Position Indicating Radiobeacons (EPIRB).
180.68 Distress flares and smoke signals.

Subpart C—Life Buoys and Lifejackets

180.70 Ring life buoys.
180.71 Lifejackets.
180.72 Personal flotation devices carried in addition to lifejackets.
180.75 Lifejackets lights.
180.78 Stowage of lifejackets.

Subpart D—Survival Craft Arrangements and Equipment

180.130 Stowage of survival craft.
180.137 Stowage of life floats and buoyant apparatus.
180.150 Survival craft embarkation arrangements.
180.175 Survival craft equipment.

Subpart E—Number and Type of Survival Craft

180.200 Survival craft—general.
180.202 Survival craft—vessels operating on oceans routes.
180.204 Survival craft—vessels operating on coastwise routes.
180.206 Survival craft—vessels operating on Great Lakes routes.
180.207 Survival craft—vessels operating on lakes, bays, and sounds routes.
180.208 Survival craft—vessels operating on rivers routes.
180.210 Rescue boats.

Authority: 46 U.S.C. 2104, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p.277; 49 CFR 1.46.

Subpart A—General Provisions

§ 180.10 Applicability to vessels on an international voyage.

A vessel on an international voyage must meet the requirements in subchapter H of this chapter for passenger vessels in the same service, instead of the requirements of this part.

§ 180.15 Applicability to existing vessels.

An existing vessel must comply with the requirements of this part except as otherwise specified by this section.

(a) Before [*date 5 years after effective date*] or 10 years after the vessel's keel was laid or the vessel was at a similar stage of construction, whichever is later, an existing vessel may comply with the requirements in effect for the vessel prior to [*effective date*] for the number and type of survival craft, stowage arrangements, and launching appliances for survival craft.

(b) On or before [*date 5 years after effective date*] or 10 years after the vessel's keel was laid or the vessel was at a similar stage of construction, whichever is later, an existing vessel must:

(1) Be equipped with the number of survival craft required for its route under §§ 180.202, 180.204, 180.206, 180.207, or 180.208, as applicable; and

(2) Comply with the stowage and launching appliance requirements for survival craft in §§ 180.130 through 180.150, inclusive.

(c) An existing vessel which meets the following requirements may be equipped with life floats of an aggregate capacity which will accommodate the total number of persons permitted on board, in lieu of meeting the requirements for the use of inflatable buoyant apparatus in §§ 180.202(c), 180.204(a)(1), and 180.206(a).

(1) The vessel is constructed of a material other than wood;

(2) The vessel is of not more than 65 feet in length and carries not more than 49 passengers;

(3) The vessel is certificated to operate on oceans, coastwise, or Great Lakes routes;

(4) The vessel must meet the standards for collision bulkheads in § 179.310 of this subchapter; and

(5) The vessel must meet the standards for one-compartment subdivision in §§ 179.220 and 179.320 of this subchapter, at least in way of the engine room and lazarette.

(d) Each inflatable liferaft, inflatable buoyant apparatus, life float, and buoyant apparatus on the vessel on [*effective date*], may be used to meet the requirements of this part for these survival craft as long as the survival craft is continued in use on the vessel, and is in good and serviceable condition.

(e) When any lifesaving equipment on a vessel is replaced or a vessel undergoes repairs, alterations, or modifications of a major character involving replacement of, or any addition to, the existing lifesaving equipment, each new piece of lifesaving equipment must meet this part.

(f) A combination flare and smoke distress signal approved under § 160.023 of this chapter may be used on an existing vessel until the expiration date of the distress signal but no later than [*3 years after effective date*] as one of the distress signals required by § 180.68.

(g) Until January 1, 1996, a Coast Guard approved 121.5/243 MHz Class A EPIRB may be used to meet the requirement for an EPIRB under § 180.64, if the EPIRB:

(1) Is operable;

(2) Is installed to automatically float-free and activate;

(3) Was manufactured on or after October 1, 1988; and

(4) Was installed on the vessel on or before [*date 45 days after effective date*]

(h) Until January 1, 1995, an FCC Type Accepted VHF–FM Class C EPIRB may be used to meet the requirement for an EPIRB on a vessel operating on a Great Lakes route under § 180.64, if the EPIRB:

(1) Is operable; and

(2) Was installed on the vessel on or before [*date 45 days after effective date*].

(i) Until January 1, 1994, an existing vessel on a coastwise route operating not more than 20 nautical miles from a harbor of safe refuge, need not comply with § 180.64.

(j) An existing vessel need not comply with § 180.78(a)(4).

(k) An existing vessel must comply with § 180.210 or may comply with the regulations for rescue boats that were in effect for the vessel prior to [*effective date of regulations*].

§ 180.25 Additional requirements.

(a) Each item of lifesaving equipment carried on board a vessel but not required under this part, must be approved by the Commandant.

(b) The cognizant OCMI may require a vessel to carry specialized or additional lifesaving equipment if:

(1) The OCMI determines the conditions of the voyage render the requirements of this part inadequate; or

(2) The vessel is operated in Arctic, Antarctic, or other severe conditions not covered under this part.

Subpart B—Emergency Communications

§ 180.64 Emergency Position Indicating Radiobeacons (EPIRB).

Each vessel which operates on the high seas, or which operates beyond three miles from the coastline of the Great Lakes, must have on board a Federal Communications Commission (FCC) Type Accepted Category 1, 406 MHz Emergency Position Indicating Radio Beacon (EPIRB), installed to automatically float free and activate.

§ 180.68 Distress flares and smoke signals.

(a) *Oceans, coastwise, and Great Lakes routes.* A vessel on an oceans, coastwise, or Great Lakes route must carry:

(1) Six hand red flare distress signals approved under subpart 160.021 of this chapter; and

(2) Six hand orange smoke distress signals approved under subpart 160.037 of this chapter.

(b) *Lakes, bays, and sounds, and rivers routes.* A vessel on a lakes, bays, and sounds, or rivers route must carry:

(1) Three hand red flare distress signals approved under subpart 160.021 of this chapter; and

(2) Three hand orange smoke distress signals approved under subpart 160.037 of this chapter.

(c) *Substitutions:* (1) A rocket parachute flare approved under subpart 160.036 of this chapter may be substituted for any of the hand red flare distress signals required under paragraph (a) or (b) of this section.

(2) One of the following may be substituted for any of the hand orange smoke distress signals required under paragraph (a) or (b) of this section:

(i) A rocket parachute flare approved under subpart 160.036 of this chapter.

(ii) A hand red flare distress signal approved under subpart 160.021 of this chapter.

(iii) A floating orange smoke distress signal approved under subpart 160.022 of this chapter.

(d) *Exemption for vessels on short runs.* A vessel operating on short runs limited to approximately 30 minutes away from the dock is not required to carry distress flares and smoke signals under this section.

(e) *Stowage.* Each flare carried to meet this section must be stowed in one of the following:

(1) A portable watertight container complying with § 160.021–6 of this chapter, carried at the operating station; or

(2) A pyrotechnic locker secured above the freeboard deck, away from heat, in the vicinity of the operating station. An acceptable pyrotechnic locker is described in ASTM F— [reserved for name of standard under development by ASTM].

Subpart C—Life Buoys and Lifejackets

§ 180.70 Ring life buoys.

(a) A vessel must have one or more ring life buoys as follows:

(1) A vessel of not more than 26 feet in length must carry a minimum of one life buoy of not less than 20 inches in diameter;

(2) A vessel of more than 26 feet in length, but not more than 65 feet, must carry a minimum of one life buoy of not less than 24 inches in diameter; and

(3) A vessel of more than 65 feet in length must carry a minimum of three life buoys of not less than 24 inches in diameter.

(b) Each ring life buoy on a vessel must:

(1) Be approved under subpart 160.050 of this chapter;

(2) Be readily accessible;

(3) Be stowed in a way that it can be rapidly cast loose;

(4) Not be permanently secured in any way; and

(5) If on a vessel on an oceans or coastwise route, be orange in color.

(c) At least one ring life buoy must be fitted with a lifeline. If more than one ring life buoy is carried, at least one must not have a lifeline attached. Each lifeline on a ring life buoy must:

(1) Be buoyant;

(2) Be of at least 60 feet in length;

(3) Be non-kinking;

(4) Have a diameter of at least 5/16 of an inch;

(5) Have a breaking strength of at least 1,124 pounds; and

(6) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light.

(d) A vessel must carry one floating waterlight, unless it is limited to daytime operation, in which case no floating waterlight is required.

(1) Each floating waterlight must be approved under subpart 161.010 of this chapter.

(2) Each ring life buoy with a floating waterlight must have a lanyard of at least 3 feet in length, but not more than 6 feet, securing the waterlight around the body of the ring life buoy.

(3) Each floating waterlight installed after [*date one year after effective date*] on a vessel carrying only one ring life buoy, must be attached to the lanyard with a corrosion-resistant clip. The clip must have a strength of at least 50 pounds, and allow the waterlight to be quickly disconnected from the ring life buoy.

§ 180.71 Lifejackets.

(a) An adult lifejacket must be provided for each person permitted on board a vessel.

(b) In addition, a number of child size lifejackets equal to at least 10% of the number of the persons permitted on board must be provided, or such greater number as necessary to provide a lifejacket for each person being carried that is smaller than the lower size limit of the adult lifejackets provided to meet this section. However, child size lifejackets are not required if the vessel's Certificate of Inspection is endorsed for the carriage of adults only.

(c) Each lifejacket must be approved under either subpart 160.002, subpart 160.005, or subpart 160.055 of this chapter.

§ 180.72 Personal flotation devices carried in addition to lifejackets.

(a) Equipment carried under this section is not acceptable in lieu of any portion of the required number of approved lifejackets and must not be substituted for the approved lifejackets required to be worn during drills and emergencies.

(b) Wearable marine buoyant devices which include "ski vests", "boating vests", and "fishing vests", approved under subpart 160.064 of this chapter, may be carried as additional equipment.

(c) Buoyant work vests approved under subpart 160.053 of this chapter may be carried as additional equipment for use of persons working near or over the water.

(d) Commercial hybrid personal flotation devices (PFD) approved under subpart 160.077 of this chapter may be carried as additional equipment for use

of persons working near or over the water. Each commercial hybrid PFD must be:

(1) Used, stowed, and maintained in accordance with the procedures set out in the manual required for these devices under § 160.077–29 of this chapter and any limitation(s) marked on them; and

(2) Of the same or similar design and have the same method of operation as each other hybrid PFD carried on board.

§ 180.75 Lifejacket lights.

(a) Each lifejacket carried on a vessel on an oceans, coastwise, or Great Lakes route, must have a lifejacket light approved under subpart 161.012 of this chapter. Each lifejacket light must be securely attached to the front shoulder area of the lifejacket.

(b) Notwithstanding the requirements of paragraph (a) of this section, lifejacket lights are not required for lifejackets on:

(1) Ferries; and

(2) Vessels with Certificates of Inspection endorsed only for routes that do not extend more than 20 miles from a harbor of safe refuge.

§ 180.78 Stowage of lifejackets.

(a) *General.* Unless otherwise stated in this section, lifejackets must be stored in convenient places distributed throughout accommodation spaces.

(1) Each stowage container for lifejackets must not be capable of being locked. If practicable, the container must be designed to allow the lifejackets to float free.

(2) Each lifejacket kept in a stowage container must be readily available.

(3) Each lifejacket stowed overhead must be supported in a manner which allows quick release for distribution.

(4) If lifejackets are stowed more than 7 feet above the deck, a means for quick release must be provided and must be capable of operation by a person standing on the deck.

(5) Each child size lifejacket must be stowed in a location which is appropriately marked and separated from adult lifejackets so the child size lifejackets are not mistaken for adult lifejackets.

(b) *Additional personal flotation devices.* The stowage locations of the personal flotation devices carried in addition to lifejackets under § 180.72, must be separate from the lifejackets, and such as not to be easily confused with that of the lifejackets.

Subpart D—Survival Craft Arrangements and Equipment

§ 180.130 Stowage of survival craft.

(a) Each survival craft must be:

(1) Secured to the vessel by a painter with a float-free link permanently attached to the vessel except that a float-free link is not required if the vessel operates only on waters not as deep as the length of the painter;

(2) Stowed so that when the vessel sinks the survival craft floats free and, if inflatable, inflates automatically;

(3) Stowed in a position which is readily accessible to crew members for launching, or else provided with a remotely operated device which releases the survival craft into launching position or into the water;

(4) Stowed in a way that permits manual release from its securing arrangements;

(5) Ready for immediate use so that two crew members can carry out preparations for embarkation and launching in less than 5 minutes;

(6) Provided with means to prevent shifting;

(7) Stowed in a way that neither the survival craft nor its stowage arrangements will interfere with the embarkation and operation of any other survival craft at any other launching station;

(8) Stowed in a way that any protective covers will not interfere with launching and embarkation.

(9) Fully equipped as required under this part; and

(10) Stowed, as far as practicable, in a position sheltered from breaking seas and protected from damage by fire and explosion.

(b) A hydrostatic release unit used in a float-free arrangement must be approved under subpart 160.062 of this chapter.

(c) A mechanical, manually operated device to assist in launching a survival craft must be provided if:

(1) The survival craft weighs more than 200 pounds; and

(2) The survival craft requires lifting to be launched.

§ 180.137 Stowage of life floats and buoyant apparatus.

(a) In addition to meeting § 180.130, each life float and buoyant apparatus must be stowed as required under this section.

(b) The float-free link required by § 180.130(a)(1) must be:

(1) Certified to meet subpart 160.073 of this chapter;

(2) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag; and

(3) Secured to the painter at one end and to the vessel on the other end.

(c) The means used to attach the float-free link to the vessel must:

(1) Have a breaking strength of at least the breaking strength of the painter;

(2) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light; and

(3) If metal, be corrosion resistant.

(d) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line which:

(1) Encircles the body of the device;

(2) Will not slip off;

(3) Has a breaking strength which is at least the strength of the painter; and

(4) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(e) If the vessel carries more than one life float or buoyant apparatus in a group with each group secured by a single painter:

(1) The combined weight of each group of life floats and buoyant apparatus must not exceed 400 pounds;

(2) Each group of life floats and buoyant apparatus is considered a single survival craft for the purposes of § 180.130(c);

(3) Each life float and buoyant apparatus must be individually attached to the painter by a line meeting §§ 180.175(e)(3)(ii), (iii), and (iv) and long enough that each life float or buoyant apparatus can float without contacting any other life float or buoyant apparatus in the group; and

(4) The strength of the float-free link under paragraph (b)(2) of this section and the strength of the painter under § 180.175(e)(3)(ii) must be determined by the combined capacity of the group of life floats and buoyant apparatus.

(f) Life floats and buoyant apparatus must not be stowed in tiers more than four feet high. When stowed in tiers, the separate units must be kept apart by spacers.

§ 180.150 Survival craft embarkation arrangements.

(a) A launching appliance which complies with the installation and arrangement requirements for launching appliances in subchapter H of this chapter must be provided for each inflatable liferaft and inflatable buoyant apparatus when either:

(1) The embarkation station for the survival craft is on a deck more than 15 feet above the waterline; or

(2) The inflatable liferaft and inflatable buoyant apparatus is boarded prior to being placed in the water.

(b) An embarkation ladder, approved under subpart 160.017 of this chapter, must be at each embarkation station if the distance from the deck on which an embarkation station is located to the vessel's lightest operating waterline is more than 10 feet.

§ 180.175 Survival craft equipment.

(a) *General.* Each item of survival craft equipment must be of good quality, and efficient for the purpose it is intended to serve. Unless otherwise stated in this section, each item of equipment carried, whether required under this section or not, must be secured by lashings, stored in lockers, compartments, brackets, or have equivalent mounting or storage arrangements which do not:

(1) Reduce survival craft capacity;

(2) Reduce space available to the occupants;

(3) Interfere with launching, recovery, or rescue operations; or

(4) Adversely affect seaworthiness of the survival craft.

(b) *Inflatable liferafts.* Each inflatable liferaft must have one of the following equipment packs as shown by the markings on its container:

(1) Limited Service;

(2) SOLAS B Pack;

(3) SOLAS A Pack; or

(4) Ocean Service.

(c) *Life floats.* Each life float must be fitted with a lifeline, pendants, two paddles, a painter, and a light.

(d) *Buoyant apparatus.* Each buoyant apparatus must be fitted with a lifeline, pendants, a painter, and a light.

(e) *Equipment specifications for life floats and buoyant apparatus.* The equipment required for lifefloats and buoyant apparatus must meet the following specifications:

(1) *Lifeline and pendants.* The lifeline and pendants must be as furnished by the manufacturer with the approved life float or buoyant apparatus. Replacement lifelines and pendants must meet the requirements in subpart 160.010 of this chapter.

(2) *Paddle.* Each paddle must be of at least 4 feet in length and buoyant.

(3) *Painter.* The painter must:

(i) Be of at least 100 feet in length, but not less than 3 times the distance between the deck where the life float or buoyant apparatus it serves is stowed and the lowest load waterline of the vessel;

(ii) Have a breaking strength of at least 1500 pounds, except that if the capacity of the life float or buoyant apparatus is 50 persons or more, the breaking strength must be at least 3000 pounds;

(iii) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light; and

(iv) Be stowed in such a way that it runs out freely when the life float or buoyant apparatus floats away from a sinking vessel.

(4) *Light.* The light must be a floating waterlight approved under subpart 161.010 of this chapter. The floating waterlight must be attached around the body of the life float or buoyant apparatus by a 12-thread manila, or equivalent, lanyard of at least 18 feet in length.

(f) *Other survival craft.* If survival craft other than inflatable liferafts, life floats, inflatable buoyant apparatus, and buoyant apparatus are carried on the vessel, such as lifeboats or rigid liferafts, they must be installed, arranged, and equipped as required under subchapter H (Passenger Vessels) of this chapter for passenger vessels on the same route.

Subpart E—Number and Type of Survival Craft

§ 180.200 Survival craft—general.

(a) Each survival craft required on a vessel by this part must meet one of the following:

(1) For an inflatable liferaft—subpart 160.051 of this chapter, with the applicable equipment pack, as determined by the cognizant OCMI. Each inflatable liferaft required on a vessel by this part must have a capacity of 6 persons or more. Inflatable liferafts may be substituted for inflatable buoyant apparatus or life floats required under this section;

(2) For a life float—subpart 160.027 of this chapter. Buoyant apparatus may be used to meet requirements for life floats if the buoyant apparatus was installed on board the vessel on or before [*effective date of final rule*], and if the buoyant apparatus remains in good and serviceable condition;

(3) For an inflatable buoyant apparatus—subpart 160.010 of this chapter. Inflatable buoyant apparatus may be substituted for life floats required under this section.

(b) If the vessel carries a small boat or boats, the capacity of these boats may be counted toward the buoyant apparatus or life float capacity required by this part. Such boats must meet the requirements for safe loading and flotation in 33 CFR part 183, and must meet the stowage, launching, and equipment requirements in this part for the survival craft they replace.

(c) A summary of survival craft requirements is provided in Table 180.200(c). The citations identify the sections of this part which contain the specific requirements.

TABLE 180.200(C)

Route	Survival craft requirements
Oceans, more than 50 miles offshore	100% ILR—§ 180.202(a)
Oceans, 20–50 miles offshore	(a) wood—100% IBA—§ 180.202(b) (b) nonwood—same as Coastwise (a) & (b)—§ 180.202(c)
Coastwise	(a) cold water [1] (i) w/subdivision—100% LF [2]—§ 180.204(a)(2) (ii) existing nonwood vessels, ≤ 65', ≤ 49 passengers, w/collision bkhd and simplified subdivision in way of Eng. Rm. & lazarette—100% LF [2]—§ 180.15(c) (iii) w/o subdivision—100% IBA—§ 180.204(a)(1) (iv) within one mile of shore (A) w/subdivision—50% LF [2]—§ 180.204(c)(2) (B) w/o subdivision—100% LF [2]—§ 180.204(c)(1) (b) warm water [3] (i) 100% LF [2]—§ 180.204(b) (ii) within one mile of shore—NONE—§ 180.204(d)
Great Lakes	(a) same as Coastwise (a) & (b)—§ 180.206(a) (b) within one mile of shore—NONE—§ 180.206(b)
Lakes, Bays, & Sounds	(a) cold water [4] (i) w/subdivision—50% LF [2]—§ 180.207(a)(2) (ii) w/o subdivision—100% LF [2]—§ 180.207(a)(1) (iii) within 1 mile of shore—NONE—§ 180.207(c) (b) warm water—NONE—§ 180.207(b)

TABLE 180.200(C)—Continued

Route	Survival craft requirements
Rivers	(a) cold water[5] (i) w/subdivision—NONE—§ 180.208(a)(2) (ii) w/o subdivision—50% LF[2]—§ 180.208(a)(1) (iii) within one mile of shore—NONE—§ 180.208(c) (b) warm water—NONE—§ 180.208(b)

Abbreviations used:
ILR = inflatable liferaft.
IBA = inflatable Buoyant Apparatus.
LF = Life Float.

[1] Cold water means the cognizant OCMI has determined the prevailing temperature of the water is ≤ 15 °C (59 °F).
[2] Any buoyant apparatus in use on an existing vessel on [*insert effective date of the final rule*] may be used to meet the requirements for LF as long as the buoyant apparatus is in good and serviceable condition—§ 180.15(d).
[3] Warm water means the cognizant OCMI has determined the prevailing temperature of the water is > 15 °C (59 °F).
[4] Shallow water exception—§ 180.207(d).
[5] Shallow water exception—§ 180.208(d).

§ 180.202 Survival craft—vessels operating on oceans routes.

(a) Each vessel certificated to operate on an oceans route more than 50 nautical miles offshore must be provided with inflatable liferafts of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(b) Each vessel constructed of wood and certificated to operate on an oceans route not more than 50 nautical miles offshore must be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(c) Each vessel constructed of a material other than wood and certificated to operate on an oceans route not more than 50 nautical miles offshore must be provided with the survival craft required by §§ 180.204 (a) or (b), as applicable.

§ 180.204 Survival craft—vessels operating on coastwise routes.

(a) Except as allowed by paragraph (c) of this section, each vessel certificated to operate on a coastwise route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less must either:

(1) Be provided with inflatable buoyant apparatus of an aggregate capacity which will accommodate at least the total number of persons permitted on board; or

(2) Meet either the standards for collision bulkheads in §§ 179.310 or 171.085 of this chapter and the standards for subdivision in §§ 179.220 and 179.320 of this subchapter or the standards for subdivision and damaged stability in §§ 171.070 through 171.073 and 171.080 of this chapter, as appropriate, and be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(b) Except as allowed by paragraph (d) of this section, each vessel certificated to operate on a coastwise route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F) must be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board.

(c) Each vessel certificated to operate on a coastwise route within one mile of land in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less must either:

(1) Be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board; or

(2) Meet either the standards for collision bulkheads in §§ 179.310 or 171.085 of this chapter and the standards for subdivision in §§ 179.220 and 179.320 of this subchapter or the standards for subdivision and damaged stability in §§ 171.070 through 171.073 and 171.080 of this chapter, as appropriate, and be provided with life floats of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board.

(d) Each vessel certificated to operate on a coastwise route within one mile of land in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F) is not required to carry survival craft.

§ 180.206 Survival craft—vessels operating on Great Lakes routes.

(a) Except as allowed by paragraph (b) of this section, each vessel certificated to operate on a Great Lakes route must be provided with the survival craft required by §§ 180.204 (a) or (b), as appropriate.

(b) Each vessel certificated to operate on a Great Lakes route within one mile of land is not required to carry survival craft.

§ 180.207 Survival craft—vessels operating on lakes, bays, and sounds routes.

(a) Except as allowed by paragraphs (c) and (d) of this section, each vessel certificated to operate on a lakes, bays and sounds route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less must either:

(1) Be provided with life floats of an aggregate capacity which will accommodate at least the total number of persons permitted on board; or

(2) Meet either the standards for collision bulkheads in §§ 179.310 or 171.085 of this chapter and the standards for subdivision in §§ 179.220 and 179.320 of this subchapter or the standards for subdivision and damaged stability in §§ 171.070 through 171.073 and 171.080 of this chapter, as appropriate, and be provided with life floats of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board.

(b) A vessel certificated to operate on a lakes, bays and sounds route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F) is not required to carry survival craft.

(c) A vessel certificated to operate on a lakes, bays and sounds route within one mile of land is not required to carry survival craft.

(d) For a vessel certificated to operate on a lakes, bays and sounds route in shallow water where the vessel cannot sink deep enough to submerge the

topmost passenger deck or where survivors can wade ashore, the cognizant OCMI may waive a requirement for life floats, if the OCMI determines that it is safe to do so, taking into consideration the vessel's scope of operation, hazards of the route, and availability of assistance.

§ 180.208 Survival craft—vessels operating on rivers routes.

(a) Except as allowed by paragraphs (c) and (d) of this section, each vessel certificated to operate on a rivers route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is 15°C (59°F) or less is either:

(1) Be provided with life floats of an aggregate capacity which will accommodate at least 50% of the total number of persons permitted on board; or

(2) Meet either the standards for collision bulkheads in §§ 179.310 or 171.085 of this chapter and the standards for subdivision in §§ 179.220 and 179.320 of this subchapter or the standards for subdivision and damaged stability in §§ 171.070 through 171.073 and 171.080 of this chapter, as appropriate, and not be required to carry survival craft.

(b) A vessel certificated to operate on a rivers route in an area and time of year where the prevailing water temperature, as determined by the cognizant OCMI, is above 15°C (59°F) is not required to carry survival craft.

(c) A vessel certificated to operate on a rivers route within one mile of land is not required to carry survival craft.

(d) For a vessel certificated to operate on a rivers route in shallow water where the vessel cannot sink deep enough to submerge the topmost passenger deck or where survivors can wade ashore, the cognizant OCMI may waive a requirement for life floats, if the OCMI determines that it is safe to do so, taking into consideration the vessel's scope of operation, hazards of the route, and availability of assistance.

§ 180.210 Rescue boats.

(a) A vessel of more than 65 feet in length must carry at least one rescue boat unless the cognizant OCMI determines that:

(1) The vessel is sufficiently maneuverable, arranged, and equipped to allow the crew to recover a helpless person from the water;

(2) Recovery of a helpless person can be observed from the operating station; and

(3) The vessel does not regularly engage in operations that restrict its maneuverability.

(b) A vessel of not more than 65 feet in length is not required to carry a rescue boat unless:

(1) The vessel carries passengers on an open or partially enclosed deck; and

(2) The cognizant OCMI determines that the vessel is designed, arranged, or involved in operations so that the vessel itself cannot serve as an adequate rescue craft.

(c) On a vessel of more than 65 feet in length, a required rescue boat and its installation must meet the requirements in subchapter H (Passenger Vessels) of this chapter for a rescue boat on a passenger vessel having the same route. On a vessel of not more than 65 feet in length, a required rescue boat must be acceptable to the cognizant OCMI.

PART 181—FIRE PROTECTION EQUIPMENT

Subpart A—General Provisions

Sec.

181.115 Applicability to existing vessels.
181.120 Equipment installed but not required.

Subpart B—Reserved

Subpart C—Fire Main System

181.300 Fire pumps.
181.310 Fire main and hydrants.
181.320 Fire hoses and nozzles.

Subpart D—Fixed Fire Extinguishing and Detecting Systems

181.400 Where required.
181.410 Fixed gas fire extinguishing systems.
181.420 Pre-engineered fixed gas fire extinguishing systems.
181.425 Galley hood fire extinguishing systems.
181.450 Independent modular smoke detecting units.

Subpart E—Portable Fire Extinguishers

181.500 Required number, type, and location.
181.520 Installation and location.

Subpart F—Additional Equipment

181.600 Fire axe.
181.610 Fire bucket.

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 181.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraphs (b), (c), and (d) of this section, an existing vessel must comply with the fire protection equipment regulations applicable to the vessel on [*date of day before effective date of regulations*] or, as an alternative, the vessel may comply with the regulations in this part.

(b) An existing vessel with a hull, or a machinery space boundary bulkhead or deck, composed of wood or fiber reinforced plastic, or sheathed on the interior in fiber reinforced plastic, must comply with the requirements of § 181.400 on or before [*date 3 years after effective date of regulations*].

(c) New installations of fire protection equipment on an existing vessel, which are completed to the satisfaction of the cognizant OCMI on or after] *effective date of regulations*], must comply with the regulations of this part. Replacement of existing equipment installed on the vessel prior to [*effective date of regulations* need not comply with the regulations] in this part.

§ 181.120 Equipment installed but not required.

Fire extinguishing and detecting equipment installed on a vessel in excess of the requirements of §§ 181.400 and 181.500 must be designed, constructed, installed and maintained in accordance with a recognized industry standard acceptable to the Commandant.

Subpart B—Reserved

Subpart C—Fire Main System

§ 181.300 Fire pumps.

(a) A self priming, power driven fire pump must be installed on each vessel:

(1) Of not more than 65 feet in length which is a ferry vessel;

(2) Of not more than 65 feet in length which carries more than 49 passengers; or

(3) Of more than 65 feet in length.

(b) On a vessel of not more than 65 feet in length carrying more than 49 passengers, and on a vessel of more than 65 feet in length, the minimum capacity of the fire pump must be 50 gallons per minute at a pressure of not less than 60 pounds per square inch at the pump outlet. The pump outlet must be fitted with a pressure gauge.

(c) On a ferry vessel of not more than 65 feet in length carrying not more than 49 passengers, the minimum capacity of the fire pump must be 10 gallons per minute. The fire pump must be capable of projecting a hose stream from the highest hydrant, through the hose and nozzle required by § 181.320, a distance of 25 feet.

(d) A fire pump may be driven by a propulsion engine. A fire pump must be permanently connected to the fire main and may be connected to the bilge system to meet the requirements of § 182.520 of this subchapter.

(e) A fire pump must be capable of both remote operation from the operating station and local, manual operation at the pump.

§ 181.310 Fire main and hydrants.

(a) A vessel which has a power driven fire pump must have a sufficient number of fire hydrants to reach any part of the vessel using a single length of fire hose.

(b) Piping, valves, and fittings in a fire main system must comply with part 182, subpart G of this subchapter.

§ 181.320 Fire hoses and nozzles.

(a) A fire hose with a nozzle must be attached to each fire hydrant at all times. For fire stations located on open decks or cargo decks, where no protection is provided, hoses may be temporarily removed during heavy weather or cargo handling operations, respectively. Hoses so removed must be stored in nearby accessible locations.

(b) On a vessel of not more than 65 feet in length carrying more than 49 passengers, and on a vessel of more than 65 feet in length, each hose must:

(1) Be lined commercial fire hose that conforms to UL 19 or hose that is listed and labeled by an independent laboratory recognized by the Commandant as being equivalent in performance;

(2) Be 50 feet in length and 1½ inches in diameter; and

(3) Have fittings of brass or other suitable corrosion-resistant material which comply with NFPA 1963.

(c) Each fire hose on a vessel of not more than 65 feet in length carrying not more than 49 passengers must:

(1) Comply with paragraphs (b)(1) and (b)(3) of this section or be garden type hose of not less than ⅝ inch nominal inside diameter;

(2) Be of one piece not less than 25 feet and not more than 50 feet in length; and

(3) If of the garden type, be of a good commercial grade constructed of an inner rubber tube, plies of braided fabric reinforcement, and an outer cover of rubber or equivalent material, and of sufficient strength to withstand the maximum pressure which can be produced by the fire pump. All fittings on the hose must be of suitable corrosion-resistant material.

(d) Each nozzle must be of corrosion-resistant material and be capable of being changed between a solid stream and a spray pattern. A nozzle on a vessel of not more than 65 feet in length carrying more than 49 passengers, and on a vessel of more than 65 feet in length, must be of an approved type.

Subpart D—Fixed Fire Extinguishing and Detecting Systems

§ 181.400 Where required.

(a) The following spaces must be equipped with a Halon or carbon dioxide fixed gas fire extinguishing system, in compliance with § 181.410, except as otherwise allowed by paragraph (b) of this section:

(1) A space containing propulsion machinery;

(2) A space containing an internal combustion engine of more than 50 hp;

(3) A space containing an oil fired boiler;

(4) A space containing machinery powered by gasoline or other fuels having a flash point of 110°F or lower;

(5) A space containing a fuel tank for gasoline or any other fuel having a flash point of 110°F or lower;

(6) A space containing combustible cargo or ship's stores inaccessible during the voyage (in these types of spaces only carbon dioxide, and not Halon, systems will be allowed);

(7) A paint locker; and

(8) A storeroom containing flammable liquids (including liquors of 80 proof or higher).

(b) Alternative system types and exceptions to the requirements of paragraph (a) of this section are:

(1) A fixed gas fire extinguishing system, which is capable of automatic discharge upon heat detection, may only be installed in a normally unoccupied space with a gross volume of not more than 6000 cubic feet;

(2) A pre-engineered fixed gas fire extinguishing system must be in compliance with § 181.420 and may only be installed in a normally unoccupied machinery space, a paint locker, or a storeroom containing flammable liquids (including liquors of 80 proof or higher), with a gross volume of not more than 2000 cubic feet;

(3) A B–II portable fire extinguisher installed outside the space may be substituted for a fixed gas fire extinguishing system in a storeroom containing flammable liquids (including liquors of 80 proof or higher) or a paint locker, with a volume of not more that 200 cubic feet; and

(4) A space which is so open to the atmosphere that a fixed gas fire extinguishing system would be ineffective, as determined by the cognizant OCMI, is not required to have a fixed gas fire extinguishing system.

(c) The following spaces must be equipped with a fire detecting system of an approved type which is installed in accordance with § 76.27 of this chapter, except when a fixed gas fire extinguishing system which is capable of automatic discharge upon heat detection is installed or when the space is manned:

(1) A space containing propulsion machinery;

(2) A space containing an internal combustion engine of more than 50 hp;

(3) A space containing an oil fired boiler;

(4) A space containing machinery powered by gasoline or any other fuels having a flash point of 110 °F or lower; and

(5) A space containing a fuel tank for gasoline or any other fuel having a flash point of 110 °F or lower.

(d) All grills, broilers, and deep fat fryers must be fitted with a grease extraction hood in compliance with § 181.425.

(e) Each overnight accommodation space on a vessel with overnight accommodations for passengers must be fitted with an independent modular smoke detecting and alarm unit in compliance with § 181.450.

(f) An enclosed vehicle space must be fitted with an automatic sprinkler system which meets the requirements of § 76.25 of this chapter; and

(1) A smoke actuated fire detecting system of an approved type which is installed in accordance with § 76.27 of this chapter; or

(2) A smoke detecting system of an approved type which is installed in accordance with § 76.33 of this chapter.

(g) A partially enclosed vehicle space must be fitted with a manual sprinkler system which meets the requirements of § 76.23 of this chapter.

§ 181.410 Fixed gas fire extinguishing systems.

(a) *General.*

(1) A fixed gas fire extinguishing system aboard a vessel must be approved by the Commandant, and be custom engineered to meet the requirements of this section unless the system meets the requirements of § 181.420.

(2) System components must be listed and labeled by an independent laboratory. A component from a different system, even if from the same manufacturer, must not be used unless included in the approval of the installed system.

(3) System design and installation must be in accordance with the Marine Design, Installation, Operation, and Maintenance Manual approved for the system by the Commandant.

(4) A fixed gas fire extinguishing system may protect more than one space. The quantity of extinguishing agent must be at least sufficient for the space requiring the greatest quantity as determined by the requirements of paragraphs (f)(4) and (g)(2) of this section.

(b) *Controls.*

(1) Controls and valves for operation of a fixed gas fire extinguishing system must be:

(i) Located outside the space protected by the system; and

(ii) Not located in a space that might be inaccessible in the event of fire in the space protected by the system.

(2) Except as provided in paragraph (c)(2) of this section, release of an extinguishing agent into a space must require two distinct operations.

(3) A system must have local manual controls at the storage cylinders capable of releasing the extinguishing agent. In addition, a normally manned space must have remote controls for releasing the extinguishing agent at the primary exit from the space.

(4) Remote controls must be located in a breakglass enclosure to preclude accidental discharge.

(5) Valves and controls must be of an approved type and protected from damage or accidental activation. A pull cable used to activate the system controls must be enclosed in conduit.

(6) A system protecting more than one space must have a manifold with a normally closed stop valve for each space protected.

(7) A gas actuated valve or device must be capable of manual override at the valve or device.

(8) A system, which has more than one storage cylinder for the extinguishing agent and which relies on pilot cylinders to activate the primary storage cylinders, must have at least two pilot cylinders. Local manual controls, in compliance with paragraph (b)(3) of this section, must be provided to operate the pilot cylinders but are not required for the primary storage cylinders.

(9) A system protecting a manned space must be fitted with an approved time delay and alarm arranged to require the alarm to sound for at least 20 seconds or the time necessary to escape from the space, whichever is greater, before the agent is released into the space. Alarms must be conspicuously and centrally located. The alarm must be powered by the extinguishing agent.

(10) A device must be provided to automatically shut down power ventilation serving the protected space and engines which draw intake air from the protected space prior to release of the extinguishing agent into the space.

(11) Controls and storage cylinders must not be in a locked space unless the key is in a breakglass type box conspicuously located adjacent to the space.

(c) *Storage space.*

(1) Except as provided in paragraph (c)(2) of this section, a storage cylinder for a fixed gas extinguishing system must be:

(i) Located outside the space protected by the system; and

(ii) Not located in a space that might be inaccessible in the event of a fire in the space protected by the system.

(2) A normally unoccupied space of less than 6000 cubic feet may have the storage cylinders located within the space protected. When the storage cylinders are located in the space:

(i) The system must be capable of automatic operation by a heat actuator within the space; and

(ii) Have manual controls in compliance with paragraph (b) of this section except for paragraphs (b)(2) and (b)(3).

(3) A space containing a storage cylinder must be maintained at a temperature within the range from −20 °F (−30 °C) to 130 °F (55 °C) or at another temperature as listed by the independent laboratory and stated in the manufacturer's approved manual.

(4) A storage cylinder must be securely fastened, supported, and protected against damage.

(5) A storage cylinder must be accessible and capable of easy removal for recharging and inspection. Provisions must be available for weighing each storage cylinder in place.

(6) Where subject to moisture, a storage cylinder must be installed to provide a space of at least 2 inches between the deck and the bottom of the storage cylinder.

(7) A Halon 1301 storage cylinder must be stowed in an upright position unless otherwise listed by the independent laboratory. A carbon dioxide cylinder may be inclined not more than 30° from the vertical, unless fitted with flexible or bent siphon tubes, in which case they may be inclined not more than 80° from the vertical.

(8) Where a check valve is not fitted on an independent storage cylinder discharge, a plug or cap must be provided for closing the outlet resulting from storage cylinder removal.

(9) Each storage cylinder must meet the requirements of § 147.60 of this chapter.

(10) A storage cylinder space must have doors which open outwards or be fitted with kickout panels installed in each door.

(d) *Piping.*

(1) A pipe, valve, or fitting of ferrous material must be protected inside and outside against corrosion unless otherwise approved by the Commandant. Aluminum or other low melting material must not be used for a component of a fixed gas fire extinguishing system except as specifically approved by the Commandant.

(2) A distribution line must extend at least 2 inches beyond the last orifice and be closed with a cap or plug.

(3) Piping, valves, and fittings must be securely supported, and where necessary, protected against damage.

(4) Drains and dirt traps must be fitted where necessary to prevent the accumulation of dirt or moisture and located in accessible locations.

(5) Piping must be used for no other purpose except that it may be incorporated with the fire detecting system.

(6) Piping passing through accommodation spaces must not be fitted with drains or other openings within such spaces.

(7) Installation test requirements for carbon dioxide systems. The distribution piping of a carbon dioxide fixed gas extinguishing system must be tested as required by this paragraph, upon completion of the piping installation, using only carbon dioxide, compressed air, or nitrogen gas.

(i) Piping between a storage cylinder and a stop valve in the manifold must be subjected to a pressure of 1,000 psi, except as permitted in paragraph (d)(7)(iii) of this section. Without additional gas being introduced to the system, the pressure drop must not exceed 300 psi after two minutes.

(ii) A distribution line to a space protected by the system must be subjected to a test similar to that described in paragraph (d)(7)(i) of this section except the pressure used must be 600 psi. For the purpose of this test, the distribution piping must be capped within the space protected at the first joint between the nozzles and the storage cylinders.

(iii) A small independent system protecting a space such as a paint locker may be tested by blowing out the piping with air at a pressure of not less than 100 psi instead of the tests prescribed in the paragraphs (d)(7)(i) and (d)(7)(ii) of this section.

(8) Installation test requirements for Halon 1301 systems. The distribution piping of a Halon 1301 fixed gas extinguishing system must be tested, as required by this paragraph (d), upon completion of the piping installation, using only carbon dioxide, compressed air, or nitrogen.

(i) When pressurizing the piping, pressure must be increased in small increments. Each joint must be subjected to a soap bubble leak test, and all joints must be leak free.

(ii) Piping between the storage cylinders and the manifold stop valve must be subjected to a leak test conducted at the maximum allowable working pressure at 130 °F (55 °C).

Without additional gas being added to the system, there must be no loss of pressure over a two minute period after thermal equilibrium is reached.

(iii) Distribution piping between the manifold stop valve and the first nozzle in the system must be capped and pneumatically tested for a period of 10 minutes at 150 psig. At the end of 10 minutes, the pressure drop must not exceed 10% of the test pressure.

(e) *Pressure relief.* When required by the cognizant OCMI, spaces which are protected by a fixed gas fire extinguishing system and which are relatively air tight, such as refrigeration spaces, paint lockers, etc., must be provided with suitable means for relieving excessive pressure within the space when the agent is released.

(f) *Specific requirements for carbon dioxide systems.* A custom engineered fixed gas fire extinguishing system, which uses carbon dioxide as the extinguishing agent, must meet the requirements of this paragraph.

(1) Piping, valves, and fittings must have a bursting pressure of not less than 6,000 psi. Piping, in nominal sizes of not more than ¾ inch, must be at least Schedule 40 (standard weight), and in nominal sizes of over ¾ inch, must be at least Schedule 80 (extra heavy).

(2) A pressure relief valve or equivalent set to relieve at between 2,400 and 2,800 psi must be installed in the distribution manifold to protect the piping from overpressurization.

(3) Nozzles must be approved by the Commandant.

(4) When installed in a machinery space, paint locker, a space containing flammable liquid stores, or a space with a fuel tank, a fixed carbon dioxide system must meet the following requirements.

(i) The quantity of carbon dioxide (in pounds) that the system must be capable of providing to a space must not be less than the gross volume of the space divided by the appropriate factor given in Table 181.410(f)(4)(i). If fuel can drain from a space being protected to an adjacent space or if the spaces are not entirely separate, the volume of both spaces must be used to determine the quantity of carbon dioxide to be provided. The carbon dioxide must be arranged to discharge into both such spaces simultaneously.

TABLE 181.410(f)(4)(i)

[Gross volume of space in cubic feet]

Factor	Over	Not over
15		500
16	500	1,600
18	1,600	4,500
20	4,500	50,000
22	50,000	

(ii) The minimum size of a branch line to a space must be as noted in Table 181.410(f)(4)(ii).

TABLE 181(f)(4)(ii)

Maximum quantity of carbon dioxide required (pounds)	Minimum nominal pipe size (inches)	Maximum quantity of carbon dioxide required (pounds)	Minimum nominal pipe size (inches)
100	½	2,500	2.5
225	¾	4,450	3
300	1	7,100	3.5
600	1.25	10,450	4
1,000	1.5	15,500	4.5
2,450	2		

(iii) Distribution piping within a space must be proportioned from the distribution line to give proper supply to the outlets without throttling.

(iv) The number, type, and location of discharge outlets must provide uniform distribution of carbon dioxide throughout a space.

(v) The area of each discharge outlet must not exceed 85 percent nor be less than 35 percent of the nominal cylinder outlet area or the area of the supply pipe, whichever is smaller. The nominal cylinder outlet area (in square inches) is determined by multiplying the factor 0.0022 by the total capacity (in pounds) of all carbon dioxide cylinders in the system, except in no case must the outlet area be of less than 0.110 square inch.

(vi) The discharge of at least 85 percent of the required amount of carbon dioxide must be completed within two minutes.

(5) When installed in an enclosed ventilation system for rotating electrical propulsion equipment a fixed carbon dioxide system must meet the following requirements.

(i) The quantity of carbon dioxide (in pounds) must be sufficient for initial and delayed discharges as required by this paragraph. The initial discharge must be equal to the gross volume of the system divided by 10 for ventilation systems having a volume of less than 2,000 cubic feet, or divided by 12 for ventilation systems having a volume of at least 2,000 cubic feet. In addition, there must be sufficient carbon dioxide available to permit delayed discharges to maintain at least a 25 percent concentration until the equipment can be stopped. If the initial discharge achieves this concentration until the equipment is stopped, a delayed discharge is not required.

(ii) The piping sizes for the initial discharge must be in accordance with Table 181.410(f)(4)(ii) and the discharge of the required amount must be completed within two minutes.

(iii) Piping for the delayed discharge must not be less than ½ inch nominal pipe size, may be incorporated with the initial discharge piping, and need not meet specific requirement for discharge rate.

(6) When installed in a cargo space a fixed carbon dioxide system must meet the following requirements.

(i) The number of pounds of carbon dioxide required for each space in cubic feet must be equal to the gross volume of the space in cubic feet divided by 30;

(ii) System piping must be of at least ¾ inch.

(iii) No specific discharge rate is required.

(g) *Specific requirements for Halon 1301 systems.*

(1) A custom engineered fixed gas fire extinguishing system, which uses Halon 1301, must comply with the applicable sections of UL Standard 1058 and the requirements of this paragraph (g).

(2) The Halon 1301 quantity and discharge requirements of UL 1058 apply, with the exception that the Halon 1301 design concentration must be 6 percent at the lowest ambient temperature expected in the space. If the lowest temperature is not known, a temperature of 0 °F must be assumed.

(3) Each storage cylinder in a system must have the same pressure and volume.

(4) Computer programs used in designing systems must have been approved by an independent laboratory.

§ 181.420 Pre-engineered fixed gas fire extinguishing systems.

(a) A pre-engineered fixed gas fire extinguishing system must:

(1) Be approved by the Commandant;

(2) Be capable of manual actuation from outside the space in addition to automatic actuation by a heat detector; and

(3) Automatically shut down all power ventilation systems and all engines that draw intake air from within the protected space.

(b) A vessel on which a pre-engineered fixed gas system is installed must have the following equipment at the operating station:

(1) A light to indicate discharge;

(2) An audible alarm which sounds upon discharge; and

(3) A means to reset devices used to automatically shut down ventilation systems and engines as required by paragraph (a)(3) of this section.

(c) Only one pre-engineered fixed gas system is allowed to be installed in each space protected by such a system.

§ 181.425 Galley hood fire extinguishing systems.

(a) A grease extraction hood required by § 181.400 must meet UL 710.

(b) A grease extraction hood must be equipped with a dry or wet chemical fire extinguishing system meeting the applicable sections of NFPA 17 or 17A, and must be listed by an independent laboratory recognized by the Commandant.

§ 181.450 Independent modular smoke detecting units.

An independent modular smoke detecting unit must:

(a) Meet UL Standard 217 and be listed as a "Single Station Smoke Detector—Also suitable for use in Recreational Vehicles";

(b) Contain an independent power source; and

(c) Alarm on low power.

Subpart E—Portable Fire Extinguishers

§ 181.500 Required number, type, and location.

(a) Each portable fire extinguisher on a vessel must be of an approved type. The minimum number of portable fire extinguishers required on a vessel must be acceptable to the cognizant OCMI, but must be not less than the minimum number required by Table 181.500(a) and other provisions of this section.

TABLE.—181.500(a)

Space protected	Minimum number required	CG Class	Medium	Minimum size
Operating station	1	B–I, C–I	Halon	2.5 lb.
			CO_2	4 lb.
			Dry chemical	2 lb.
Machinery space	1	B–II, C–II located just outside exit	Halon	10 lb.
			CO_2	15 lb.
			Dry chemical	10 lb.
Open vehicle deck	1 for each 10 vehicles	B–II	Foam	2.5 gal
			Halon	10 lb.
			CO_2	15 lb.
			Dry chemical	10 lb.
Accomodation space	1 for each 2,500 square feet or fraction thereof	A–II	Foam	2.5 gal.
			Dry chemical	5 lb.
Galley, pantry, concession stand	1	A–II, B–II	Foam	2.5 gal.
			Dry chemical	10 lb.

(b) A vehicle deck without a fixed sprinkler system and exposed to weather must have one B–II portable fire extinguisher for every five vehicles, located near an entrance to the space.

(c) The cognizant OCMI may permit the use of a larger portable fire extinguisher, or a semiportable fire extinguisher, in lieu of those required by this section.

(d) The frame or support of each B–V fire extinguisher permitted by paragraph (c) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

§ 181.520 Installation and location.

Portable fire extinguishers must be located so that they are clearly visible and readily accessible from the space being protected. The installation and location must be to the satisfaction of the Officer in Charge, Marine Inspection.

Subpart F—Additional Equipment

§ 181.600 Fire axe.

A vessel of more than 65 feet in length must have at least one fire axe located in or adjacent to the primary operating station.

§ 181.610 Fire bucket.

A vessel must have at least three 2½ gallon buckets, with an attached lanyard satisfactory to the cognizant OCMI, placed so as to be easily available during an emergency. The words "FIRE BUCKET" must be stenciled in a contrasting color on each bucket.

PART 182—MACHINERY INSTALLATION

Subpart A—General Provisions

Sec.

182.100 Intent.
182.115 Applicability to existing vessels.
182.130 Alternative standards.

Subpart B—Propulsion Machinery

182.200 General.
182.220 Installations.

Subpart C—Auxiliary Machinery

182.300 General.
182.310 Installations.
182.320 Hot water heaters.
182.330 Pressure vessels.

Subpart D—Specific Machinery Requirements

182.400 Applicability.
182.405 Fuel restrictions.
182.410 General requirements.
182.415 Carburetors.
182.420 Engine cooling.
182.422 Keel and grid cooler installations.
182.425 Engine exhaust cooling.
182.430 Engine exhaust pipe installation.
182.435 Integral fuel tanks.
182.440 Independent fuel tanks.
182.445 Fill and sounding pipes for fuel tanks.
182.450 Vent pipes for fuel tanks.
182.455 Fuel piping.
182.458 Portable fuel systems.
182.460 Ventilation of spaces containing machinery powered by, or fuel tanks for, gasoline.
182.465 Ventilation of spaces containing diesel machinery.

182.470 Ventilation of spaces containing diesel fuel tanks.
182.480 Flammable vapor detection systems.

Subpart E—Bilge and Ballast Systems

182.500 General.
182.510 Bilge piping system.
182.520 Bilge pumps.
182.530 Bilge level alarms.
182.540 Ballast systems.

Subpart F—Steering Systems

182.600 General.
182.610 Main steering gear.
182.620 Auxiliary means of steering.

Subpart G—Piping Systems

182.700 General.
182.710 Piping for vital systems.
182.715 Piping subject to more than 150 psi in non-vital systems.
182.720 Nonmetallic piping materials.
182.730 Nonferrous metallic piping materials.

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 182.100 Intent.

This part contains requirements for the design, construction, installation, and operation of propulsion and auxiliary machinery, piping and pressure systems, steering apparatus, and associated safety systems. Machinery and equipment installed on each vessel must be suitable for the vessel and its operation and for the purpose intended. All machinery and equipment must be installed and maintained in such a manner as to afford adequate protection from causing fire, explosion, machinery failure, and personnel injury.

§ 182.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraphs (b) and (c) of this section, an existing vessel must comply with the regulations on machinery, bilge and ballast system equipment, steering apparatus, and piping systems or components which were applicable to the vessel on [*date of day before effective date of regulations*] or, as an alternative, the vessel may comply with the regulations in this part.

(b) New installations of machinery, bilge and ballast system equipment, steering equipment, and piping systems or components on an existing vessel, which are completed to the satisfaction of the cognizant OCMI on or after [*effective date of regulations*], must comply with the regulations of this part. Replacement of existing equipment installed on the vessel prior to [*effective date of regulations*] need not comply with the regulations in this part.

(c) An existing vessel equipped with machinery powered by gasoline or other fuels having a flash point of 110 °F or lower must comply with the requirements of § 182.410(c) on or before [*date 3 years after effective date of regulations*].

§ 182.130 Alternative standards.

(a) A vessel of not more than 65 feet in length carrying not more than 12 passengers propelled by gasoline or diesel internal combustion engines, other than a dynamically supported craft, may comply with the requirements listed in paragraph (b) of this section instead of complying with the requirements of this part.

(b) The alternative standards for vessels identified in paragraph (a) of this section are:

(1) Auxiliary boilers, hot water heaters, and all unfired pressure vessels must comply with subpart C of this part;

(2) Gasoline engines must comply with § 182.415;

(3) Bilge systems must comply with § 182.500;

(4) Steering systems must comply with subpart F of this part; and

(5) The following American Boat and Yacht Council (ABYC) Projects and regulations in 33 CFR subchapter S (Boating Safety), where applicable:

(i) H–2—"Ventilation of Boats Using Gasoline," or 33 CFR part 183, subpart K, "Ventilation";

(ii) H–22—"DC Electric Bilge Pumps Operating Under 50 Volts";

(iii) H–24—"Gasoline Fuel Systems", or 33 CFR part 183, subpart J—"Fuel System";

(iv) H–25—"Portable Fuel Systems for Flammable Liquids";

(v) H–32—"Ventilation of Boats Using Diesel Fuel";

(vi) H–33—"Diesel Fuel Systems";

(vii) P–1—"Installation of Exhaust Systems for Propulsion and Auxiliary Engines"; and

(viii) P–4—"Marine Inboard Engines".

Subpart B—Propulsion Machinery

§ 182.200 General.

(a) Propulsion machinery must be suitable in type and design for propulsion requirements of the hull in which it is installed and capable of operating at constant marine load under such requirements without exceeding its designed limitations.

(b) All engines must have at least two means for stopping the engine(s) under any operating conditions. The fuel oil shutoff required at the engine by § 182.455(b)(4) will satisfy one means of stopping the engine.

§ 182.220 Installations.

(a) Except as otherwise provided in this section, propulsion machinery installations must comply with the provisions of this part.

(b) The requirements for machinery and boilers for steam and electrically propelled vessels are contained in applicable regulations in subchapter F (Marine Engineering) and subchapter J (Electrical Engineering) of this chapter.

(c) Propulsion machinery of an unusual type for small passenger vessels must be given separate consideration and must be subject to such requirements as determined necessary by the Officer in Charge, Marine Inspection. These unusual types of propulsion machinery include:

(1) Gas turbine machinery installations;

(2) Air screws;

(3) Hydraulic jets; and

(4) Machinery installations using propulsion and lift devices.

Subpart C—Auxiliary Machinery

§ 182.300 General.

Auxiliary machinery must be suitable in type and design for the purpose intended.

§ 182.310 Installations.

(a) Auxiliary machinery of the internal combustion piston type must comply with the provisions of this part.

(b) Auxiliary machinery of the steam or gas turbine type will be given separate consideration and must meet the applicable requirements of subchapter F (Marine Engineering) of this chapter as determined necessary by the cognizant OCMI.

(c) Auxiliary boilers and heating boilers and their associated piping and fittings will be given separate consideration and must meet the applicable requirements of subchapter F (Marine Engineering) of this chapter as determined necessary by the cognizant OCMI, except that heating boilers must be tested or examined every three years.

§ 182.320 Hot water heaters.

(a) A hot water heater must meet the requirements of parts 52 and 63 of this chapter if rated at more than 100 psig (689 kPa) or 250°F (121°C).

(b) A hot water heater must meet the requirements of parts 53 and 63 of this chapter if rated at not more than 100 psig (689 kPa) and 250°F (121°C), except that an electric hot water heater is also acceptable if it:

(1) Has a capacity of not more than 120 gallons (454 liters);

(2) Has a heat input of not more than 58.6 kilowatts (200,000 Btu per hour);

(3) Is listed by Underwriters' Laboratories under UL Standard 174 or 1453; and

(4) Is protected by a pressure-temperature relief device.

§ 182.330 Pressure vessels.

All unfired pressure vessels must be installed to the satisfaction of the cognizant OCMI. The design, construction, and original testing of such unfired pressure vessels must meet the applicable requirements of subchapter F (Marine Engineering) of this chapter.

Subpart D—Specific Machinery Requirements

§ 182.400 Applicability.

(a) This subpart applies to all propulsion and auxiliary machinery installations of the internal combustion piston type.

(b) Requirements of this subpart that are only applicable to engines which use gasoline or other fuels having a flashpoint of 110°F or lower are specifically designated in each section.

(c) Requirements of this subpart that are only applicable to engines which use diesel fuel or other fuels having a flashpoint of more than 110°F are specifically designated in each section.

(d) Where no specific gasoline, diesel, or other fuel designation exists, the requirements of this subpart are applicable to all types of fuels and machinery.

§ 182.405 Fuel restrictions.

The use of alternative fuels, other than diesel fuel or gasoline, as fuel for an internal combustion engine will be reviewed on a case by case basis by Commandant.

§ 182.410 General requirements.

(a) Starting motors, generators, and any spark producing device must be mounted as high above the bilges as practicable. Electrical equipment in spaces, compartments, or enclosures that contain machinery powered by, or fuel tanks for, gasoline or other fuels having a flashpoint of 110°F or lower must be explosion-proof, intrinsically safe, or ignition protected for use in a gasoline atmosphere as required by § 183.530 of this subchapter.

(b) Gauges to indicate engine RPM, cooling water discharge temperature, and lubricating oil pressure must be provided for all propulsion engines installed in the vessel. The gauges must be readily visible at the operating station.

(c) An enclosed space containing machinery powered by gasoline or other fuels having a flash point of 110°F or lower must be equipped with a flammable vapor detection device in compliance with § 182.480.

(d) In systems and applications where flexible hoses are permitted to be clamped:

(1) Double hose clamping is required where practicable;

(2) The clamps must be of a corrosion resistant metallic material;

(3) The clamps must not depend on spring tension for their holding power; and

(4) Two clamps must be used on each end of the hose, or one hose clamp can be used if the pipe ends are expanded or beaded to provide a positive stop against hose slippage.

(e) An overspeed trip and or shutdown device must be installed on all diesel engine installations designed to produce 300 or more horsepower under ideal conditions, as follows:

(1) For main propulsion engines, meet section 34.11.6 of the ABS "Rules for Building and Classing Steel Vessels."

(2) For generator prime movers, meet section 35.21.2 of the ABS "Rules for Building and Classing Steel Vessels."

§ 182.415 Carburetors.

(a) All carburetors except the downdraft type must be equipped with integral or externally fitted drip collectors of adequate capacity and arranged so as to permit ready removal of fuel leakage. Externally fitted drip collectors, must be covered with flame screens. Drip collectors, where practicable, should automatically drain back to engine air intakes.

(b) All gasoline engines installed in a vessel, except outboard engines, must be equipped with an acceptable means of backfire flame control. Installation of backfire flame arresters bearing basic Approval Numbers 162.015 or 162.041 or engine air and fuel induction systems bearing basic Approval Numbers 162.042 or 162.043 may be continued in use as long as they are serviceable and in good condition. New installations or replacements must meet the applicable requirements of this section.

(c) The following are acceptable means of backfire flame control for gasoline engines:

(1) A backfire flame arrester complying with SAE J–1928 or UL 1111 and marked accordingly. The flame arrester must be suitably secured to the air intake with a flametight connection.

(2) An engine air and fuel induction system which provides adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an acceptable backfire flame arrester. A gasoline engine utilizing an air and fuel induction system, and operated without an approved backfire flame arrester, must either include a reed valve assembly or be installed in accordance with SAE J–1928.

(3) An arrangement of the carburetor or engine air induction system that will disperse any flames caused by engine backfire. The flames must be dispersed to the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel, persons on board, or nearby vessels and structures. Flame dispersion may be achieved by attachments to the carburetor or location of the engine air induction system. All attachments must be of metallic construction with flametight connections and firmly secured to withstand vibration, shock, and engine backfire. Such installations do not require formal approval and labeling but must comply with this subpart.

(4) An engine air induction system on a vessel with an integrated engine-vessel design must be approved, marked, and tested under § 162.043 of this chapter.

§ 182.420 Engine cooling.

(a) Except as otherwise provided in paragraphs (b), (c), (d), and (e) of this section, all engines must be water cooled and meet the requirements of this paragraph.

(1) The engine head, block, and exhaust manifold must be water-jacketed and cooled by water from a pump which operates whenever the engine is operating.

(2) A suitable hull strainer must be installed in the circulating raw water intake line of an engine cooling water system.

(3) A closed fresh water system may be used to cool the engine.

(b) An engine water cooling system on a vessel of not more than 65 feet in length carrying not more than 12 passengers, may comply with the requirements of ABYC Project P–4, "Marine Inboard Engines," instead of the requirements of paragraph (a) of this section.

(c) On a vessel of not more than 65 feet in length carrying not more than 12 passengers, a propulsion gasoline engine may be air cooled when in compliance with the requirements of ABYC Project P–4, "Marine Inboard Engines."

(d) An auxiliary gasoline engine may be air cooled when:

(1) It has a self-contained fuel system and it is installed on an open deck; or

(2) On a vessel of not more than 65 feet in length carrying not more than 12 passengers, it is in compliance with the requirements of ABYC P–4, "Marine Inboard Engines."

(e) A propulsion or auxiliary diesel engine may be air cooled or employ an air cooled jacket water radiator when:

(1) Installed on an open deck and sufficient ventilation for machinery cooling is available;

(2) Installed in an enclosed or partially enclosed space for which ventilation for machinery cooling is provided, which complies with the requirement of § 119.465(b), and other necessary safeguards are taken so as not to endanger the vessel; or

(3) Installed on a vessel of not more than 65 feet in length carrying not more than 12 passengers, in compliance with the requirements of ABYC Project P–4, "Marine Inboard Engines."

§ 182.422 Keel and grid cooler installations.

(a) A keel or grid cooler installation used for engine cooling must be designed to prevent flooding.

(b) A shutoff valve must be located where the cooler piping penetrates the shell, as near the shell as practicable, except where the penetration is forward of the collision bulkhead.

(c) The thickness of the inlet and discharge connections, outboard of the shutoff valves required by paragraph (b) of this section, must be at least Schedule 80.

(d) Short lengths of approved nonmetallic flexible hose, fixed by hose clamps, may be used at machinery connections for a keel cooler installation.

§ 182.425 Engine exhaust cooling.

(a) Except as otherwise provided in this paragraph, all engine exhaust pipes must be water cooled.

(1) Vertical dry exhaust pipes are permissible if installed in compliance with §§ 177.405(b) and 177.970 of this subchapter.

(2) Horizontal dry exhaust pipes are permitted only if:

(i) They do not pass through living or berthing spaces;

(ii) They terminate above the deepest load waterline;

(iii) They are so arranged as to prevent entry of cold water from rough or boarding seas;

(iv) They are constructed of corrosion resisting material at the hull penetration; and

(v) They are installed in compliance with §§ 177.405(b) and 177.970 of this subchapter.

(b) The exhaust pipe cooling water system must comply with the requirements of this paragraph.

(1) Water for cooling the exhaust pipe must be obtained from the engine cooling water system or a separate engine driven pump.

(2) Water for cooling the exhaust pipe, other than a vertical exhaust, must be injected into the exhaust system as near to the engine manifold as practicable. The water must pass through the entire length of the exhaust pipe.

(3) The part of the exhaust system between the point of cooling water injection and the engine manifold must be water-jacketed or effectively insulated and protected in compliance with §§ 177.405(b) and 177.970 of this subchapter.

(4) Vertical exhaust pipes must be water-jacketed or suitably insulated between the engine manifold and the spark arrester required by § 182.430(g).

(5) When the exhaust cooling water system is separate from the engine cooling water system, a suitable warning device, visual or audible, must be installed at the operating station to indicate any reduction in normal water flow in the exhaust cooling system.

(6) A suitable hull strainer must be installed in the circulating raw water intake line for the exhaust cooling system.

(c) Engine exhaust cooling systems built in accordance with the requirements of ABYC Project P–1, "Installation of Exhaust Systems for Propulsion and Auxiliary Machinery," will be considered as meeting the requirements of this section.

§ 182.430 Engine exhaust pipe installation.

(a) The design of all exhaust systems must ensure minimum risk of injury to personnel. Protection must be provided in compliance with § 177.970 of this subchapter at such locations where persons or equipment might come in contact with an exhaust pipe.

(b) Exhaust gas must not leak from the piping or any connections. The piping must be properly supported by noncombustible hangers or blocks.

(c) The exhaust piping must be so arranged as to prevent backflow of water from reaching engine exhaust ports under normal conditions.

(d) An exhaust pipe discharge located less than 3 inches above the deepest load waterline must be fitted with means to prevent the ingress of water.

(e) Pipes used for wet exhaust lines must be schedule 80 or corrosion-resistant material and adequately protected from mechanical damage.

(f) Where flexibility is necessary, a section of flexible metallic hose may be used. Nonmetallic hose may be used for wet exhaust systems provided it is especially adapted to resist the action of oil, acid, and heat, has a wall thickness sufficient to prevent collapsing or panting, and is double clamped.

(g) Where an exhaust pipe passes through a watertight bulkhead, the watertight integrity of the bulkhead must be maintained. Noncombustible packing must be used in bulkhead penetration glands for dry exhaust systems. A wet exhaust pipe may be welded to a steel bulkhead in way of a penetration and a fiberglass wet exhaust pipe may be fiberglassed to a fiberglass reinforced plastic bulkhead if suitable arrangements are provided to relieve the stresses resulting from the expansion of the exhaust piping.

(h) A dry exhaust pipe must:

(1) If it passes through a combustible bulkhead or partition, be kept clear of and suitably insulated or shielded from combustible material.

(2) Be provided with noncombustible hangers and blocks for support.

(i) An exhaust pipe discharge terminating in a transom must be located as far outboard as practicable so that exhaust gases cannot re-enter the vessel.

(j) Arrangements must be made to provide access to allow complete inspection of the exhaust piping throughout its length.

(k) An exhaust installation subject to pressures in excess of 15 pounds per square inch gauge or having exhaust pipes passing through living or working spaces must meet the material requirements of part 56 of subchapter F (Marine Engineering) of this chapter.

(l) Engine exhaust installations built in accordance with the requirements of ABYC Project P–1, "Installations of Exhaust Systems for Propulsion and Auxiliary Machinery," will be considered as meeting the requirements of this section.

§ 182.435 Integral fuel tanks.

(a) Gasoline fuel tanks must be independent of the hull.

(b) Diesel fuel tanks may not be built integral with the hull of a vessel unless the hull is made of:

(1) Steel;

(2) Aluminum; or

(3) Fiber reinforced plastic when:

(i) Sandwich construction is not used; or

(ii) Sandwich construction is used with only a core material of closed cell polyvinyl chloride.

(c) During the initial inspection for certification of a vessel, integral fuel tanks must withstand a hydrostatic pressure test of 5 pounds per square inch, or the maximum pressure head to which they may be subjected in service, whichever is greater. A standpipe of 11½ feet in height attached to the tank may be filled with water to accomplish the 5 pounds per square inch test.

§ 182.440 Independent fuel tanks.

(a) *Materials and construction.* Independent fuel tanks must be designed and constructed of materials in compliance with the requirements of this paragraph.

(1) The material used and the minimum thickness allowed must be as indicated in table 182.440(a)(1), except that other materials which provide equivalent safety may be approved for use under paragraph (a)(3) of this section. Tanks having a capacity of more than 150 gallons must be designed to withstand the maximum head to which they may be subjected in service, but in no case may the thickness be less than that specified in table 182.440(a)(1).

TABLE—182.440(a)(1)

Material	ASTM specification (latest edition)	Thickness in inches & gage number[1] vs. tank capacities for		
		1 to 80 gallon tanks	More than 80 and not more than 150 gallon tanks	Over 150[2] gallon tanks
Nickel-copper	B127, hot rolled sheet or plate	0.037 (USSG 20)[3].	0.050 (USSG 18).	0.107 (USSG 12)
Copper-nickel[4]	B122, UNS alloy C71500	0.045 (AWG 17).	0.057 (AWG 15).	0.128 (AWG 8)
Copper[4]	B152, UNS alloy C11000	0.057 (AWG 15).	0.081 (AWG 12).	0.182 (AWG 5)
Copper-silicon[4]	B97, alloys A, B, and C	0.051 (AWG 16).	0.064 (AWG 14).	0.144 (AWG 7)
Steel or iron[5,6]		0.0747 (MSG 14).	0.1046 (MSG 12).	0.1793 (MSG 7)
Aluminum[7]	B209, alloy 5052, 5083, 5086	0.250 (USSG 3).	0.250 (USSG 3).	0.250 (USSG 3)
Fiber reinforced plastic		As required[8] ...	As required[8] ...	As required[8]

[1] The gage numbers used in this table may be found in many standard engineering reference books. The letters "USSG" stand for "U.S. Standard Gage," which was established by the Act of March 3, 1892 (15 U.S.C. 206), for sheet and plate iron and steel. The letters "AWG" stand for "American Wire Gage" (or Brown and Sharpe Gage) for noferrous sheet thicknesses. The letters "MSG" stand for "Manufacturers' Standard Gage" for sheet steel thickness.

[2] Tanks over 400 gallons shall be designed with a factor of safety of four on the ultimate strength of the material used with a design head of not less than 4 feet of liquid above the top of the tank.

[3] Nickel-copper not less than 0.031 inch (USSG 22) may be used for tanks up to 30-gallon capacity.

[4] Acceptable only for gasoline service.

[5] Gasoline fuel tanks constructed of iron or steel, which are less than 3/16 inch thick, shall be galvanized inside and outside by the hot dip process. Tanks intended for use with diesel oil shall not be internally galvanized.

[6] Stainless steel tanks are not included in this category.

[7] Anodic to most common metals. Avoid dissimilar metal contact with tank body.

[8] The requirements of § 182.440(a)(2) apply.

(2) Fiber reinforced plastic may be used for diesel fuel tanks under the following provisions:

(i) The materials must be fire retardant. Flammability of the material must be determined by the standard test methods ASTM D635 and ASTM D2863. The results of the tests must show that the average extent of burning is less than 0.394 inches (10mm), the average time of burning is less than 50 seconds, and the limiting oxygen index is greater than 21.

(ii) Tanks must meet UL Standard 1102. Testing may be accomplished by an independent laboratory or by the fabricator to the satisfaction of the OCMI.

(iii) Tanks must be designed to withstand the maximum head to which they may be subjected to in service.

(iv) Installation of nozzles, flanges or other fittings for pipe connections to the tanks must be acceptable to the cognizant OCMI.

(v) Baffle plates, if installed, must be of the same material and not less than the minimum thickness of the tank walls. Limber holes at the bottom and air holes at the top of all baffles must be provided. Baffle plates must be installed at the time the tests required by UL Standard 1102 are conducted.

(3) Materials other than those listed in Table 182.440(a)(1) must be approved by the Commandant. An independent tank using material approved by the Commandant under this paragraph must meet the testing requirements of UL Standard 1102. Testing may be accomplished by an independent laboratory or by the fabricator to the satisfaction of the OCMI.

(4) Tanks with flanged-up top edges which may trap and hold moisture are prohibited.

(5) Openings for fill pipes, vent pipes, and machinery fuel supply pipes, and openings for fuel level gauges, where used, must be on the topmost surfaces of tanks. Tanks may not have any openings in bottoms, sides, or ends, except for:

(i) An opening fitted with a threaded plug or cap installed for tank cleaning purposes; and

(ii) In a diesel fuel tank, openings for supply piping and tubular gauge glasses.

(6) All tank joints must be welded or brazed. Lap joints may not be used.

(7) Nozzles, flanges, or other fittings for pipe connections to a metal tank must be welded or brazed to the tank. Tank openings in way of pipe connections must be properly reinforced where necessary. Where fuel level gauges are used on a metal tank, the flanges to which gauge fittings are attached must be welded or brazed to the tank. No tubular gauge glasses may be fitted to gasoline fuel tanks. Tubular gauge glasses, if fitted to diesel fuel tanks, must be of heat resistant materials, adequately protected from mechanical damage, and provided at the tank connections with devices which will automatically close in the event of rupture of the gauge or gauge lines.

(8) A metal tank exceeding 30 inches in any horizontal dimension must:

(i) Be fitted with vertical baffle plates, which meet paragraph (a)(9) of this section, at intervals not exceeding 30

inches to provide strength and to control the excessive surge of fuel; or

(ii) The owner shall submit calculations to the cognizant OCMI demonstrating the structural adequacy of the tank in a fully loaded static condition and in a worst case dynamic (sloshing) condition.

(9) Baffle plates, where required in metal tanks, must be of the same material and not less than the minimum thickness required in the tank walls and must be connected to the tank walls by welding or brazing. Limber holes at the bottom and air holes at the top of all baffles must be provided.

(10) Iron or steel diesel fuel tanks must not be galvanized on the interior. Galvanizing, paint, or other suitable coating must be used to protect the outside of iron and steel diesel fuel tanks and the inside and outside of iron and steel gasoline fuel tanks.

(b) *Location and installation.* Independent fuel tanks must be located and installed in compliance with the requirements of this paragraph.

(1) Fuel tanks must be located in, or as close as practicable to, machinery spaces.

(2) Fuel tanks and fittings must be so installed as to permit examination, testing, or removal for cleaning with minimum disturbance to the hull structure.

(3) Fuel tanks must be adequately supported and braced to prevent movement. The supports and braces must be insulated from contact with the tank surfaces with a nonabrasive and nonabsorbent material.

(4) All fuel tanks must be electrically bonded to a common ground.

(c) *Tests.* Independent fuel tanks must be tested in compliance with the requirements of this part prior to being used to carry fuel.

(1) Prior to installation, tanks vented to the atmosphere must be hydrostatically tested to, and must withstand, a pressure of 5 pounds per square inch or 1½ times the maximum pressure head to which they may be subjected in service, whichever is greater. A standpipe of 11½ feet in height attached to the tank may be filled with water to accomplish the 5 pounds per square inch test. Permanent deformation of the tank will not be cause for rejection unless accompanied by leakage.

(2) After installation of the fuel tank on a vessel, the complete installation must be tested in the presence of a marine inspector to a head not less than that to which the tank may be subjected in service. Fuel may be used as the testing medium.

(3) All tanks not vented to the atmosphere must be constructed and tested in accordance with § 182.330.

(d) *Alternative procedures.* A vessel of not more than 65 feet in length carrying not more than 12 passengers, with independent gasoline fuel tanks built in accordance with ABYC Project H–24 or 33 CFR part 183, subpart J, or with independent diesel fuel tanks built in accordance with ABYC Project H–33, will be considered as meeting the requirements of this section. However, tanks must not be fabricated from any material not listed in table 182.440(a)(1) without approval by the Commandant under paragraph (a)(3) of this section.

§ 182.445 Fill and sounding pipes for fuel tanks.

(a) Fill pipes for fuel tanks must be not less than 1½ inches nominal pipe size.

(b) There must be a means of accurately determining the amount of fuel in each fuel tank either by sounding, through a separate sounding pipe or a fill pipe, or by an installed marine type fuel gauge.

(c) Where sounding pipes are used, their openings must be at least as high as the opening of the fill pipe and they must be kept closed at all times except during sounding.

(d) Fill pipes and sounding pipes must be so arranged that overflow of liquid or vapor cannot escape to the inside of the vessel.

(e) Fill pipes and sounding pipes must run as directly as possible, preferably in a straight line, from the deck connection to the top of the tank. Such pipes must terminate on the weather deck and must be fitted with shutoff valves, watertight deck plates, or screw caps, suitably marked for identification. Gasoline fill pipes and sounding pipes must extend to within one half of their diameter from the bottom of the tank. Diesel fill pipes and sounding pipes may terminate at the top of the tank.

(f) A vessel of not more than 65 feet carrying not more than 12 passengers, with a gasoline fuel system built in accordance with ABYC Project H–24 or 33 CFR part 183, subpart J, or with a diesel fuel system built in accordance with ABYC Project H–33 will be considered as meeting the requirements of this section.

(g) Where a flexible fill pipe section is necessary, suitable flexible tubing or hose having high resistance to salt water, petroleum oils, heat and vibration, may be used. Such hose must overlap metallic pipe ends at least 1½ times the pipe diameter and must be secured at each end by clamps. The flexible section must be accessible and as near the upper end of the fill pipe as practicable. When the flexible section is a nonconductor of electricity, the metallic sections of the fill pipe separated thereby must be joined by a conductor for protection against generation of a static charge when filling with fuel.

§ 182.450 Vent pipes for fuel tanks.

(a) Each unpressurized fuel tank must be fitted with a vent pipe connected to the highest point of the tank.

(b) The net cross sectional area of the vent pipe for a gasoline fuel tank must not be less than that of ¾ inch O.D. tubing (0.035 inch wall thickness, 20 gauge), except that, where the tank is filled under pressure, the net cross sectional area of the vent pipe must be not less than that of the fill pipe.

(c) The minimum net cross sectional area of the vent pipe for diesel fuel tanks must be as follows:

(1) Not less than the cross sectional area of ⅜ inch O.D. tubing (0.035-inch wall thickness, 20 gauge), if the fill pipe terminates at the top of the tank;

(2) Not less than the cross sectional area of ¾ inch O.D. tubing (0.035-inch wall thickness, 20 gauge), if the fill pipe extends into the tank; and

(3) Not less than the cross sectional area of the fill pipe if the tank is filled under pressure.

(d) The discharge ends of fuel tank vent pipes must terminate on the hull exterior as high above the waterline as practicable and remote from any hull openings, or they must terminate in U-bends as high above the weather deck as practicable and as far as practicable from openings into any enclosed spaces. Vent pipes terminating on the hull exterior must be installed or equipped to prevent the accidental contamination of the fuel by water under normal operating conditions.

(e) The discharge ends of fuel tank vent pipes must be fitted with removable flame screens or flame arresters. The flame screens must consist of a single screen of corrosion resistant wire of at least 30×30 mesh. The flame screens or flame arresters must be of such size and design as to prevent reduction in the net cross sectional area of the vent pipe and permit cleaning or renewal of the flame screens or arrester elements.

(f) A vessel of not more than 65 feet in length carrying not more than 12 passengers, with fuel gasoline tank vents built in accordance with ABYC Project H–24, or 33 CFR part 183, subpart J, or with diesel fuel tank vents built in accordance with ABYC Project

H–33, will be considered as meeting the requirements of this section.

(g) Where a flexible vent pipe section is necessary, suitable flexible tubing or hose having high resistance to salt water, petroleum oils, heat and vibration, may be used. Such hose must overlap metallic pipe ends at least 1½ times the pipe diameter and must be secured at each end by clamps. The flexible section must be accessible and as near the upper end of the vent pipe as practicable.

§ 182.455 Fuel piping.

(a) *Materials and workmanship.* The materials and construction of fuel lines, including pipe, tube, and hose, must comply with the requirements of this paragraph.

(1) Fuel lines must be annealed tubing of copper, nickel-copper, or copper-nickel having a minimum wall thickness of 0.035 inch except that:

(i) Diesel fuel piping of other materials, such as seamless steel pipe or tubing, which provide equivalent safety may be used;

(ii) Diesel fuel piping of aluminum is acceptable on aluminum hull vessels provided it is installed outside the machinery space and is a minimum of Schedule 80 wall thickness; and

(iii) When used, flexible hose must meet the requirements of § 182.720(e).

(2) Tubing connections and fittings must be of nonferrous drawn or forged metal of the flared type except that flareless fittings of the non-bite type may be used when the tubing system is of nickel-copper or copper-nickel. When making tube connections, the tubing must be cut square and flared by suitable tools. Tube ends must be annealed before flaring.

(3) Cocks are prohibited except for the solid bottom type with tapered plugs and union bonnets.

(4) Valves for gasoline fuel lines must be of a suitable nonferrous type.

(b) *Installation.* The installation of fuel lines, including pipe, tube, and hose, must comply with the requirements of this paragraph.

(1) Gasoline fuel lines must be connected at the top of the fuel tank and run at or above the level of the tank top to a point as close to the engine connection as practicable, except that lines below the level of the tank top are permitted if equipped with anti-siphon protection.

(2) Diesel fuel lines may be connected to the fuel tank at or near the bottom of the tank.

(3) Fuel lines must be accessible, protected from mechanical injury, and effectively secured against excessive movement and vibration by the use of soft nonferrous metal straps which have no sharp edges and are insulated to protect against corrosion. Where passing through bulkheads, fuel lines must be protected by close fitting ferrules or stuffing boxes. All fuel lines and fittings must be accessible for inspection.

(4) Shutoff valves, installed so as to close against the fuel flow, must be fitted in the fuel supply lines, one at the tank connection and one at the engine end of the fuel line to stop fuel flow when servicing accessories. The shutoff valve at the tank must be manually operable from outside the compartment in which the valve is located, preferably from an accessible position on the weather deck. If the shutoff valve at the tank is located inside the Engine Room, it must be located so that the operator does not have to reach more than 12" into the Engine Room and the valve must be shielded from flames by the same material the hull is constructed of, or some noncombustible material. Electric solenoid valves must not be used, unless used in addition to the manual valve.

(5) A loop of copper tubing or a short length of flexible hose must be installed in the fuel supply line at or near the engines. The flexible hose must meet the requirements of § 182.720(e).

(6) A suitable metal marine type strainer, meeting the requirements of the engine manufacturer, must be fitted in the fuel supply line in the engine compartment. Strainers must be leak free. Strainers must be of the type opening on top for cleaning screens. A drip pan fitted with flame screen must be installed under gasoline strainers. Fuel filter and strainer bowls must be highly resistant to shattering due to mechanical impact and resistant to failure due to thermal shock. Fuel filters fitted with bowls of other than steel construction must be approved by the Commandant and be protected from mechanical damage. Approval of bowls of other than steel construction will specify if a flame shield is required.

(7) All accessories installed in the fuel line must be independently supported.

(8) Outlets in gasoline fuel lines which would permit drawing fuel below deck, for any purpose, are prohibited.

(9) Valves for removing water or impurities from diesel fuel in water traps or strainers are permitted. These valves must be provided with caps or plugs to prevent fuel leakage.

(c) *Alternative procedures.* A vessel of not more than 65 feet carrying not more than 12 passengers, with machinery powered by gasoline and a fuel system built in accordance with ABYC Project H–24 or 33 CFR part 183, subpart J, or with machinery powered by diesel fuel and a fuel system built in accordance with ABYC Project H–33, will be considered as meeting the requirements of this section.

§ 182.458 Portable fuel systems.

(a) Portable fuel systems, including portable tanks and related fuel lines and accessories, are prohibited except where used for outboard motor installations.

(b) The design, construction and stowage of portable tanks and related fuel lines and accessories must meet the requirements of ABYC Project H–25, "Portable Fuel Systems for Flammable Liquids."

§ 182.460 Ventilation of spaces containing machinery powered by, or fuel tanks for, gasoline.

(a) A space containing machinery powered by, or fuel tanks for, gasoline must have a ventilation system which complies with this section and consists of:

(1) For an enclosed space:

(i) At least two natural ventilation supply ducts located at one end of the space and which extend to the lowest part of the space or to the bilge on each side of the space; and

(ii) A mechanical exhaust system consisting of at least two ventilation exhaust ducts located at the end of the space opposite from where the supply ducts are fitted, which extend to the lowest part or the bilge of the space on each side of the space, and which are led to one or more powered exhaust blowers; and

(2) For a partially enclosed space, at least one ventilation duct installed in the forward part of the space and one ventilation duct installed in the after part of the space, or as otherwise required by the cognizant OCMI. Ducts for partially enclosed spaces must have cowls or scoops as required by paragraph (i) of this section.

(b) A mechanical exhaust system required by paragraph (a)(1)(ii) of this section must be such as to assure the air changes as noted in Table 182.460(b) depending upon the size of the space.

TABLE.—182.460(b)

Size of space in cubic feet		
Over	Not over	Minutes per air change
0	500	2
500	1,000	3
1,000	1,500	4
1,500	.....	5

(c) An exhaust blower motor may not be installed in a duct, and if mounted in any space required to be ventilated by this section, must be located as high above the bilge as practicable. Blower blades must be nonsparking with reference to their housings.

(d) Where a fixed gas fire extinguishing system is installed in a space, all powered exhaust blowers for the space must automatically shut down upon release of the extinguishing agent.

(e) Exhaust blower switches must be located outside of any space required to be ventilated by this section, and must be of the type interlocked with the starting switch and the ignition switch so that the blowers are started before the engine starter motor circuit or the engine ignition is energized. A red warning sign at the switch must state that the blowers must be operated prior to starting the engines for the time sufficient to insure at least one complete change of air in the space served.

(f) The area of the ventilation ducts must be sufficient to limit the air velocity to a maximum of 2,000 feet per minute. A duct may be of any shape, provided that in no case will one cross sectional dimension exceed twice the other.

(g) A duct must be so installed that ordinary collection of water in the bilge will not block vapor flow.

(h) A duct must be of rigid permanent construction, which does not allow any appreciable vapor flow except through normal openings, and made of the same material as the hull or of noncombustible material. The duct must lead as directly as possible from its intake opening to its terminus and be securely fastened and supported.

(i) A supply duct must be provided at its intake opening with a cowl or scoop having a free area not less than twice the required duct area. When the cowl or scoop is screened, the mouth area must be increased to compensate for the area of the screen wire. A cowl or scoop must be kept open at all times except when the weather is such as to endanger the vessel if the openings are not temporarily closed.

(j) Dampers may not be fitted in a supply duct.

(k) A duct opening may not be located where the natural flow of air is unduly obstructed, adjacent to possible sources of vapor ignition, or where exhaust air may be taken into a supply duct.

(l) Provision must be made for closing all supply duct cowls or scoops and exhaust duct discharge openings for a space protected by a fixed gas extinguishing system. All closure devices must be readily available and mounted in the vicinity of the vent.

(m) A vessel of not more than 65 feet in length carrying not more than 12 passengers, with ventilation installations in accordance with ABYC Project H–2, "Ventilation of Boats Using Gasoline," or 33 CFR part 183, subpart K, "Ventilation," will be considered as meeting the requirements of this section.

§ 182.465 Ventilation of spaces containing diesel machinery.

(a) A space containing diesel machinery must be fitted with adequate means such as dripproof ventilators, ducts, or louvers, to provide sufficient air for proper operation of main engines and auxiliary engines.

(b) Air-cooled propulsion and auxiliary diesel engines installed below deck, as permitted by § 182.420, must be fitted with air supply ducts or piping from the weather deck. The ducts or piping must be so arranged and supported to be capable of safely sustaining stresses induced by weight and engine vibration and to minimize transfer of vibration to the supporting structure. Prior to installation of ventilation system for such engines, plans or sketches showing machinery arrangement including air supplies, exhaust stack, method of attachment of ventilation ducts to the engine, location of spark arresting mufflers and capacity of ventilation blowers must be submitted to the cognizant OCMI for approval.

(c) A space containing diesel machinery must be fitted with at least two ducts to furnish natural or powered supply and exhaust ventilation. One duct must extend to a point near the bottom of the space, and be so installed that the ordinary collection of water in the bilge will not block air flow in the duct. Where powered ventilation is installed, the duct extending near the bottom of the space must be the exhaust. The total inlet area and the total outlet area of each ventilation duct may not be less than one square inch for each foot of beam of the vessel. These minimum areas must be increased as necessary when the ducts are considered as part of the air supply to the engines.

(d) A duct must be of rigid permanent construction, which does not allow any appreciable vapor flow except through normal openings, and made of the same material as the hull or of noncombustible material. The duct must lead as directly as possible from its intake opening to its terminus and be securely fastened and supported.

(e) A supply duct must be provided with a cowl or scoop having a free area not less than twice the required duct area. When the cowl or scoop is screened, the mouth area must be increased to compensate for the area of the screen wire. A cowl or scoop must be kept open at all times except when the weather is such as to endanger the vessel if the openings are not temporarily closed.

(f) Dampers may not be fitted in a supply duct.

(g) A duct opening may not be located where the natural flow of air is unduly obstructed, adjacent to possible sources of vapor ignition, or where exhaust air may be taken into a supply duct.

(h) Provision must be made for closing all supply duct cowls or scoops and exhaust duct discharge openings for a space protected by a fixed gas extinguishing system. All closure devices must be readily available and mounted in the vicinity of the vent.

(i) A vessel of not more than 65 feet in length carrying not more than 12 passengers, with ventilation installations in accordance with ABYC Project H–32, "Ventilation of Boats Using Diesel Fuel," will be considered as meeting the requirements of this section.

§ 182.470 Ventilation of spaces containing diesel fuel tanks.

(a) Unless provided with ventilation which complies with § 182.465, a space containing a diesel fuel tank and no machinery must meet the requirements of this paragraph.

(1) A space of 500 cubic feet or more in volume must have a gooseneck vent of not less than 2½ inches in diameter.

(2) A space of less than 500 cubic feet in volume must have a gooseneck vent of not less than 1½ inches in diameter.

(b) Vent openings may not be located adjacent to possible sources of vapor ignition.

(c) A vessel of not more than 65 feet in length carrying not more than 12 passengers, with ventilation installations in accordance with ABYC Project H–32, "Ventilation of Boats Using Diesel Fuel," will be considered as meeting the requirements of this section.

§ 182.480 Flammable vapor detection systems.

(a) A flammable vapor detection system must meet UL Standard 1110 and be approved by an independent laboratory.

(b) Procedures for checking the proper operation of a flammable vapor detection system must be posted at the primary operating station. The system must be self-monitoring and include a ground fault indication alarm.

(c) A flammable vapor detection system must be operational for 30 seconds prior to engine startup and continue sensing the entire time the engine is running.

(d) A flammable vapor detection system must provide a visual and audible alarm at the operating station.

(e) A sensor must be located above the expected bilge water level in the following locations:

(1) The lowest part of a machinery space;

(2) The lowest part of a space containing a fuel tank when separate from the machinery space; and

(3) Any other location when required by the cognizant Officer in Charge, Marine Inspection.

(f) A flammable vapor detection system must be installed so as to permit calibration in a vapor free atmosphere.

(g) Electrical connections, wiring, and components for a flammable vapor detection system must comply with part 183 of this subchapter.

(h) An operation and maintenance manual for the flammable vapor detection system must be kept onboard.

Subpart E—Bilge and Ballast Systems

§ 182.500 General.

(a) A vessel must be provided with a satisfactory arrangement for draining any watertight compartment, other than small buoyancy compartments, under all practicable conditions. Sluice valves are not permitted in watertight bulkheads.

(b) A vessel of not more than 65 feet in length carrying not more than 12 passengers may meet the requirements of American Boat and Yacht Council Project H–22 in lieu of the requirements of this subpart, provided that each watertight compartment, other than small buoyancy compartments and the compartment forward of the collision bulkhead, is provided with a means for dewatering.

(c) Special consideration may be given to vessels, such as dynamically supported craft, that have a high degree of subdivision and utilize numerous small buoyancy compartments. Where the probability of flooding of the space is limited to external hull damage, compartment drainage may be omitted provided it can be shown by stability calculations, submitted to the cognizant OCMI, that the safety of the vessel will not be impaired.

§ 182.510 Bilge piping system.

(a) A vessel of at least 26 feet in length must be provided with individual bilge lines and bilge suctions for each watertight compartment, except that the space forward of the collision bulkhead need not be fitted with a bilge suction line when the arrangement of the vessel is such that ordinary leakage may be removed from this compartment by the use of a hand portable bilge pump or other equipment, and such equipment is provided.

(b) A bilge pipe in a vessel of not more than 65 feet in length must be not less than 1 inch nominal pipe size. A bilge pipe in a vessel of more than 65 feet in length must be not less than 1½ inches nominal pipe size. A bilge suction must be fitted with a suitable strainer having an open area not less than three times the area of the bilge pipe.

(c) Except when individual pumps are provided for separate spaces, individual bilge suction lines must be led to a central control point or manifold and provided with a stop valve at the control point or manifold and a check valve at some accessible point in the bilge line. A stop-check valve located at a control point or manifold will meet the requirements for both a stop valve and a check valve.

(d) A bilge pipe piercing the collision bulkhead must be fitted with a screw-down valve located on the forward side of the collision bulkhead and operable from the weather deck, or, if it is readily accessible under service conditions, a screw-down valve without a reach rod may be fitted to the bilge line on the after side of the collision bulkhead.

§ 182.520 Bilge pumps.

(a) A vessel must be provided with bilge pumps in accordance with Table 182.520(a). A second power pump is an acceptable alternative to a hand pump if it is supplied by a source of power independent of the first power bilge pump. Individual power pumps used for separate spaces are to be controlled from a central control point and must have a light or other visual means at the control point to indicate operation.

TABLE.—182.520(a)

Number of passengers	Length of vessel	Bilge pumps required	Minimum capacity required per pump (gal. per minutes)
Any number	More than 65 feet	2 fixed power pumps	50 GPM.
More than 49 passengers and all ferry vessels.	Not more than 65 feet	1 fixed power pump and 1 portable hand pump.	25 GPM (power); 10 GPM (hand).
Not more than 49 passengers (other than ferry vessels).	26 feet up to 65 feet	1 fixed power pump and 1 portable hand pump, or 1 fixed hand pump and 1 portable hand pump.	10 GPM (fixed power); 10 GPM (fixed hand); 5 GPM (portable hand).
	Less than 26 feet	1 portable hand pump	5 GPM.

(b) A portable hand bilge pump must be:

(1) Capable of pumping water, but not necessarily simultaneously, from all watertight compartments; and

(2) Provided with suitable suction and discharge hoses capable of reaching the bilges of each watertight compartment.

(c) Each fixed power bilge pump must be self priming. It may be driven off the main engine or other source of power. It must be permanently connected to the bilge manifold and may also be connected to the fire main. If of sufficient capacity, a power bilge pump may also serve as a fire pump.

(d) Where two fixed power bilge pumps are installed, they must be driven by different sources of power. If one pump is driven off the main engine in a single propulsion engine installation, the other must be independently driven. In a twin propulsion engine installation, each pump may be driven off a different propulsion engine.

(e) A submersible electric bilge pump may be used as a power bilge pump required by Table 182.520(a) only on a vessel of not more than 65 feet in length carrying not more than 49 passengers, other than a ferry, provided that:

(1) The pump is listed by Underwriters Laboratories Inc. or another independent laboratory;

(2) The pump is used to dewater not more than one watertight compartment;

(3) The pump is permanently mounted;

(4) The pump is equipped with a strainer which can be readily inspected and cleaned without removal;

(5) The pump discharge line is suitably supported; if flexible hose is used, the hose does not penetrate any required watertight bulkheads;

(6) The opening in the hull for the pump discharge is placed as high above the waterline as possible; and

(7) A positive shutoff valve is installed at the hull penetration.

(8) The capacity of the electrical system, including wiring, and size and number of batteries, is designed to allow all bilge pumps to be operated simultaneously.

(f) A flexible tube or hose may be used instead of fixed pipe for the discharge line of a submersible electric bilge pump provided the hose or tube does not penetrate any required watertight bulkheads and is:

(1) Of good quality and of substantial construction, suitable for the intended use; and

(2) Highly resistant to salt water, petroleum oil, heat, and vibration.

(g) If a fixed hand pump is used to comply with Table 182.520(a), it must be permanently connected to the bilge system.

(h) On a vessel of not more than 65 feet in length, a power driven fire pump required by § 181.300 of this subchapter may serve as a fixed power bilge pump required by this subpart, provided it has the minimum flow rate required by Table 182.520(a).

(i) On a vessel of more than 65 feet in length, a power driven fire pump required by § 181.300 of this subchapter may serve as one of the two fixed power bilge pumps required by this subpart, provided:

(1) The bilge and fire pump systems are interconnected;

(2) The dedicated bilge pump is capable of pumping the bilges at the same time the fire/bilge pump charges the firemain; and

(3) Stop valves and check valves are installed in the piping to isolate the systems during simultaneous operation and prevent possible flooding through the bilge system.

(j) A catamaran vessel must be equipped with bilge pumps for each hull, as if each hull is a separate vessel, in accordance with Table 182.520(a), except where:

(1) One dedicated pump is located in each hull;

(2) Each dedicated pump is driven by an independent source of power; and

(3) The bilge system is permanently cross connected between hulls.

§ 182.530 Bilge level alarms.

(a) On a vessel of at least 26 feet in length, a visual and audible alarm must be provided at the operating station to indicate high bilge level in all normally unattended machinery spaces located below the deepest load waterline.

(b) A visual indicator must be provided at the operating station to indicate when any automatic bilge pump is operating.

§ 182.540 Ballast systems.

(a) Ballast piping must not be installed in any compartment integral with the hull of a wooden vessel. Where the carriage of liquid ballast in such a vessel is necessary, suitable ballast tanks, structurally independent of the hull, must be provided.

(b) Solid and water ballast must comply with the requirements of part 178 of this subchapter.

Subpart F—Steering Systems

§ 182.600 General.

A self-propelled vessel must comply with the provisions of this subpart.

§ 182.610 Main steering gear.

(a) A vessel must be provided with a main steering gear that is:

(1) Of adequate strength and capable of steering the vessel at all service speeds;

(2) Designed to operate at maximum astern speed without being damaged or jammed; and

(3) Capable of moving the rudder from 35 degrees on one side to 30 degrees on the other side in not more than 28 seconds with the vessel moving ahead at maximum service speed.

(b) Control of the main steering gear, including control of any necessary associated devices (motor, pump, valve, etc.), must be provided from the operating station.

(c) The main steering gear must be designed so that transfer from the main steering gear or control to the auxiliary means of steering required by § 182.620 can be achieved rapidly. Any tools or equipment necessary to make the transfer must be readily available.

(d) The operating station must be arranged to permit the person steering to have the best possible all around vision.

(e) Strong and effective rudder stops must be provided to prevent jamming and damage to the rudder and its fittings. These stops may be structural or internal to the main steering gear.

(f) In addition to meeting the requirements of paragraphs (a) thru (e) of this section, a vessel with a power driven main steering gear must be provided with the following:

(1) A visual means, located at the operating station, to indicate operation of the power units;

(2) Instructions for transfer procedures from the main steering gear or control to the auxiliary means of steering required by § 182.620, posted at the location where the transfer is carried out;

(3) A disconnect switch located in the steering compartment, and instantaneous short circuit protection for electrical power and control circuits sized and located in accordance with §§ 111.93–11 (d) and (e) of this chapter. Overload protection is prohibited;

(4) An independent rudder angle indicator at the operating station;

(5) An arrangement that automatically resumes operation, without reset, when power is restored after a power failure;

(6) A manual means to center and steady the rudder(s) in an emergency;

(7) A limit switch to stop the steering gear before it reaches the rudder stops required by paragraph (e) of this section.

§ 182.620 Auxiliary means of steering.

(a) Except as provided in paragraph (c) of this section, a vessel must be

provided with an auxiliary means of steering that is:

(1) Of adequate strength;

(2) Capable of moving the rudder from 15 degrees on one side to 15 degrees on the other side in not more than 60 seconds with the vessel at one-half its maximum service speed ahead, or 7 knots, whichever is greater; and

(3) Controlled from a location that permits safe maneuvering of the vessel and does not expose the person operating the auxiliary means of steering to personnel hazards during normal or heavy weather operation.

(b) A suitable hand tiller may be acceptable as the auxiliary means of steering where satisfactory to the Officer in Charge, Marine Inspection.

(c) An auxiliary means of steering need not be provided if:

(1) The main steering gear and its controls are provided in duplicate;

(2) Multiple screw propulsion, with independent pilothouse control for each screw, is provided, and the vessel is capable of being steered using pilothouse control;

(3) No regular rudder is fitted and steering action is obtained by a change of setting of the propelling unit; or

(4) Where a rudder and hand tiller are the main steering gear.

Subpart G—Piping Systems

§ 182.700 General.

Materials used in piping systems must meet the requirements of this subpart and be otherwise acceptable to the Officer in Charge, Marine Inspection.

§ 182.710 Piping for vital systems.

(a) Vital systems are those systems which are vital to a vessel's survivability and safety. For the purpose of this part the following are vital systems:

(1) Fuel system;

(2) Fire main;

(3) CO_2 and Halon systems;

(4) Bilge system;

(5) Steering system;

(6) Propulsion system and its necessary auxiliaries and controls;

(7) Ship's service and emergency electrical generation system and its necessary auxiliaries; and

(8) A marine engineering system identified by the cognizant OCMI as being crucial to the survival of the vessel or to the protection of the personnel on board.

(b) For the purpose of this part, a system not identified in paragraph (a) of this section is a non-vital system.

(c) Piping used in a vital system must:

(1) Be composed of ferrous materials except when:

(i) Nonmetallic piping materials are permitted by § 182.720; or

(ii) Nonferrous metallic piping materials are permitted by § 182.730; and

(2) If subject to a pressure of more than 150 psi, be designed, fabricated, and inspected in accordance with the principles of ANSI B31.1 or another industry standard acceptable to the Commandant.

§ 182.715 Piping subject to more than 150 psi in non-vital systems.

Piping subject to more than 150 psi in a non-vital system must be designed, fabricated, and inspected in accordance with the principles of ANSI B31.1 or other industry standard acceptable to the Commandant.

§ 182.720 Nonmetallic piping materials.

(a) Rigid nonmetallic materials (plastic) may be used only in non-vital systems and in accordance with paragraphs (c) and (d) of this section.

(b) Flexible nonmetallic materials (hose) may be used in vital and non-vital systems where permitted by paragraph (e) of this section.

(c) Nonmetallic piping must not be used in gasoline or diesel fuel systems. Flexible nonmetallic materials (hose) may be used where permitted by paragraph (e) of this section.

(d) Where rigid nonmetallic material (plastic) is permitted for use in piping systems by this section, the following restrictions apply:

(1) Penetrations of required watertight decks and bulkheads by any rigid plastic pipe are prohibited unless the following requirements are met:

(i) Each penetration must be accomplished using an acceptable metallic through deck or through bulkhead fitting which is welded or otherwise attached to the bulkhead or deck by an accepted method; and

(ii) One or more metallic shutoff valves must be installed adjacent to the fitting in one of the following ways:

(A) Only one metallic shutoff valve must be installed if it is operable from above the bulkhead deck;

(B) If two metallic shutoff valves are installed, one on either side of the bulkhead, they need not be operable from above the bulkhead deck provided immediate access to both is possible; or

(C) Where both plastic and metallic materials are used in piping which penetrates a bulkhead, and the two materials exist entirely on opposite sides of the bulkhead, a metallic shutoff valve must be installed at the bulkhead in the metallic part of the system, with the valve being capable of operation from above the bulkhead deck, or locally if immediate access is possible;

(2) Protection from mechanical damage must be specifically considered and all protective covering or shields must be installed to the satisfaction of the Officer in Charge, Marine Inspection;

(3) Through hull fittings and shutoff valves must be metallic. In the case of nonmetallic hulls, materials which will afford an equal degree of safety and heat resistivity as that afforded by the hull may be approved; and

(4) The material specification must show that the rigid nonmetallic material possesses characteristics adequate for its intended service and environment and must be approved for use by the Officer in Charge, Marine Inspection.

(e) Where flexible nonmetallic hose is permitted for use in piping systems by this section, it must meet SAE Standard J1942 or be specifically approved by the Commandant. The following restrictions apply.

(1) Flexible nonmetallic hose must be complete with factory-assembled end fittings requiring no further adjustment of the fittings on the hose, or field attachable type fittings may be used. Hose end fittings must comply with SAE J–1475. Field attachable fittings must be installed following the manufacturer's recommended practice. If special equipment is required, such as crimping machines, it must be of the type and design specified by the manufacturer. If field attachable type fittings are used, each hose assembly must be individually hydrostatically tested to twice the rated pressure stamped thereon;

(2) Flexible nonmetallic hose may be used in non-vital water and pneumatic systems, subject to the limitations of paragraph (d)(1) through (d)(4) of this section. Unreinforced hoses are limited to a maximum service pressure of 50 psi, reinforced hoses are limited to a maximum service pressure of 150 psi; and

(3) Flexible nonmetallic hose may be used in lube oil, fuel oil and fluid power systems, subject to the following requirements:

(i) Flexible hose may only be used at a pressure not to exceed the manufacturer's rating and must have a high resistance to saltwater, petroleum oils, and vibration;

(ii) Flexible hose runs must be visible, easily accessible, and must not penetrate watertight bulkheads;

(iii) Flexible hose must be fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid;

(iv) Flexible hose used for alcohol-gasoline blend fuels must meet the

permeability requirements specified in 33 CFR part 183, subpart J; and

(v) Flexible hose installed in lengths of not more than 30 inches for the purpose of flexibility only, and subject to pressures of not more than 5 pounds per square inch, may meet the following requirements:

(A) Suitable compression type connection fittings may be accepted;

(B) Flexible hose designed for use with hose clamps may be installed with two clamps, at both ends of the hose, which:

(*1*) Do not rely on the spring tension of the clamp for compressive force; and

(*2*) Are installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting; and

(C) USCG Type A1, A2, B1, or B2 flexible hose may be accepted in accordance with 33 CFR part 183, subpart J.

§ 182.730 Nonferrous metallic piping materials.

(a) Nonferrous metallic piping materials are acceptable for use in the following:

(1) Non-vital systems;

(2) Aluminum fuel piping, if of a minimum of schedule 80 wall thickness on an aluminum hulled vessel and located outside the machinery space;

(3) Aluminum bilge, ballast, and firemain piping on an aluminum hulled vessel;

(4) If acceptable to the cognizant OCMI, nonferrous metallic piping with a melting temperature above 1700°F may be used in vital systems that are deemed to be galvanically compatible; and

(5) Other uses specifically accepted by the cognizant OCMI.

(b) Where nonferrous metallic material is permitted for use in piping systems by this subpart, the restrictions in this paragraph apply:

(1) Provisions must be made to protect piping systems using aluminum alloys in high risk fire areas due to the low melting point of aluminum alloys;

(2) Provisions must be made to prevent or mitigate the effect of galvanic corrosion due to the relative solution potentials of copper, aluminum, and alloys of copper and aluminum, which are used in conjunction with each other, steel, or other metals and their alloys;

(3) A suitable thread compound must be used in making up threaded joints in aluminum pipe to prevent seizing. Pipe in the annealed temper must not be threaded;

(4) The use of aluminum alloys with a copper content exceeding 0.6 percent is prohibited; and

(5) The use of cast aluminum alloys in hydraulic fluid power systems must be in accordance with the requirements of § 58.30–15(f) of this chapter.

PART 183—ELECTRICAL INSTALLATIONS

Subpart A—General Provisions

Sec.

183.100 Intent.
183.115 Applicability to existing vessels.
183.130 Alternative standards.

Subpart B—General Requirements

183.200 General design, installation, and maintenance requirements.
183.210 Protection from wet and corrosive environments.
183.220 General safety provisions.

Subpart C—Power Sources and Distribution Systems

183.310 Power sources.
183.320 Generators and motors.
183.322 Multiple generators.
183.324 Dual voltage generators.
183.330 Distribution panels and switchboards.
183.340 Cable and wiring requirements.
183.350 Batteries—general.
183.352 Battery categories.
183.354 Battery installations.
183.360 Semiconductor rectifier systems.
183.370 System and equipment grounding.
183.380 Overcurrent protection.
183.390 Shore power.
183.392 Radiotelephone installations.

Subpart D—Lighting Systems

183.410 Lighting fixtures.
183.420 Navigation lights.
183.430 Portable lights.
183.432 Emergency lighting.

Subpart E—Miscellaneous Systems and Requirements

183.520 Lifeboat winches.
183.530 Hazardous areas.
183.540 Elevators.
183.550 General alarm systems.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p.277; 49 CFR 1.46.

Subpart A—General Provisions

§ 183.100 Intent.

This part contains requirements for the design, construction, installation, and operation of electrical equipment and systems including power sources, lighting, motors, miscellaneous equipment, and safety systems.

§ 183.115 Applicability to existing vessels.

(a) Except as otherwise required by paragraphs (b) and (c) of this section, an existing vessel must comply with the regulations on electrical installations, equipment, and material which were applicable to the vessel on [*date of the day before the effective date of the final rule*] or, as an alternative, the vessel may comply with the regulations in this part.

(b) An existing vessel must comply with the requirements of §§ 183.420 and 183.430.

(c) New installations of electrical equipment and material, and the repair or replacement of wire and cable, on an existing vessel, which are completed to the satisfaction of the cognizant OCMI on or after [*effective date of the final rule*], must comply with this part. Replacement of existing equipment, not including wire or cable, installed on the vessel prior to [*effective date of the final rule*] need not comply with the regulations in this part.

§ 183.130 Alternative standards.

(a) A vessel, other than a dynamically supported craft, of not more than 65 feet in length carrying not more than 12 passengers, may comply with the following requirements instead of complying with the requirements of this part in their entirety:

(1) § 183.420; and

(2) The following ABYC Projects where applicable:

(i) E–8;

(ii) E–9; and

(iii) A–16.

(b) A vessel with an electrical installation operating at less than 50 volts may meet the requirements in 33 CFR 183.430 instead of those in § 183.340 of this subchapter.

Subpart B—General Requirements

§ 183.200 General design, installation, and maintenance requirements.

Electrical equipment on a vessel must be installed and maintained to:

(a) Provide services necessary for safety under normal and emergency conditions;

(b) Protect passengers, crew, other persons, and the vessel from electrical hazards, including fire, caused by or originating in electrical equipment, and electrical shock;

(c) Minimize accidental personnel contact with energized parts; and

(d) Prevent electrical ignition of flammable vapors.

§ 183.210 Protection from wet and corrosive environments.

(a) Electrical equipment used in the following locations must be dripproof:

(1) A machinery space;

(2) A location normally exposed to splashing, water washdown, or other wet conditions within a galley, a laundry, or a public washroom or toilet room that has a bath or shower; or

(3) Another space with a similar moisture level.

(b) Electrical equipment exposed to the weather must be watertight.

(c) Electrical equipment exposed to corrosive environments must be of

suitable construction and corrosion-resistant.

§ 183.220 General safety provisions.

(a) Electrical equipment and installations must be suitable for the roll, pitch, and vibration of the vessel underway.

(b) All equipment, including switches, fuses, lampholders, etc., must be suitable for the voltage and current utilized.

(c) Receptacle outlets of the type providing a grounded pole or a specific direct current polarity must be of a configuration that will not permit improper connection.

(d) All electrical equipment and circuits must be clearly marked and identified.

(e) Any cabinet, panel, box, or other enclosure containing more than one source of power must be fitted with a sign warning persons of this condition and identifying the circuits to be disconnected.

Subpart C—Power Sources and Distribution Systems

§ 183.310 Power sources.

(a)(1) Each vessel that relies on electricity to power the following loads must have at least two sources of electricity for each load:

(i) The vital systems listed in § 182.710 of this subchapter.

(ii) Interior lighting except for decorative lights.

(iii) Communication systems including a public address system required under § 184.610 of this subchapter.

(iv) Navigation equipment and lights.

(2) A vessel with batteries of adequate capacity to supply the loads specified in paragraph (a)(1) of this section, and a generator or alternator driven by a propulsion engine, complies with the requirement in paragraph (a)(1) of this section.

(b) Where a ship service generator driven by a propulsion engine is used as a source of electrical power, a vessel speed change, throttle movement or change in direction of the propeller shaft rotation must not interrupt power to any of the loads specified in paragraph (a)(1) of this section.

§ 183.320 Generators and motors.

(a) Each generator and motor must be:

(1) In a location that is accessible, adequately ventilated, and as dry as practicable; and

(2) Mounted above the bilges to avoid damage by splash and to avoid contact with low lying vapors.

(b) Each generator and motor must be designed for an ambient temperature of 50°C (122°F) except that:

(1) If the ambient temperature in the space where a generator or motor will be located will not exceed 40°C under normal operating conditions, the generator or motor may be designed for an ambient temperature of 40°C; and

(2) A generator or motor designed for 40°C may be used in 50°C ambient locations provided the generator or motor is derated to 80 percent of the full load rating, and the rating or setting of the overcurrent devices is reduced accordingly.

(c) A voltmeter and an ammeter, which can be used for measuring voltage and current of a generator that is in operation, must be provided for a generator rated at 50 volts or more. For each alternating current generator, a means for measuring frequency must also be provided. Additional control equipment and measuring instruments must be provided, if needed, to ensure satisfactory operation of each generator.

(d) Each generator must have a nameplate attached to it containing the information required by Article 445 of the NEC (NFPA 70), and for a generator derated in accordance with paragraph (b)(2) of this section, the derated capacity.

(e) Each motor must have a nameplate attached to it containing the information required by Article 430 of the NEC (NFPA 70), and for a motor derated in accordance with paragraph (b)(2) of this section, the derated capacity.

§ 183.322 Multiple generators.

When a vessel is equipped with two or more generators to supply ship's service power, the following requirements must be met:

(a) Each generator must have an independent prime mover; and

(b) The generator circuit breakers must be interlocked to prevent the generators from being simultaneously connected to the switchboard, except for the circuit breakers of a generator operated in parallel with another generator when the installation meets §§ 111.05–13, 111.12–11(f), 111.30–19(a), and 111.30–25(d) of this chapter.

§ 183.324 Dual voltage generators.

When a dual voltage generator is installed on a vessel:

(a) The neutral of a dual voltage system must be solidly grounded at the switchboard's neutral bus and be accessible for checking the insulation resistance of the generator to ground before the generator is connected to the bus; and

(b) Ground detection must be provided that:

(1) For an alternating current system, meets § 111.05–27 of this chapter; and

(2) For a direct current system, meets § 111.05–29 of this chapter.

§ 183.330 Distribution panels and switchboards.

(a) Each distribution panel and switchboard must be in as dry a location as practicable, accessible, adequately ventilated, and protected from falling debris and dripping or splashing water.

(b) Each distribution panel or switchboard must be totally enclosed and of the dead front type.

(c) Each switchboard must be fitted with a dripshield.

(d) Distribution panels and switchboards which are accessible from the rear must be constructed to prevent a person from accidentally contacting energized parts.

(e) Working space must be provided around all main distribution panels and switchboards of at least 24 inches in front of the switchboard, and behind the switchboard at least 18 inches from the nearest bulkhead, stiffener, or frame, or have no rear access.

(f) Nonconducting mats or grating must be provided on the deck in front of each switchboard and, if accessible from the rear, on the deck in the rear of the switchboard.

(g) All uninsulated current carrying parts must be mounted on noncombustible, nonabsorbent, high dielectric insulating material.

(h) Equipment mounted on a hinged door of an enclosure must be constructed or shielded so that a person will not accidentally contact energized parts of the door mounted equipment when the door is open and the circuit energized.

(i) In the design of a control, interlock, or indicator circuit, all practicable steps must be taken to eliminate all but one source of potential in an enclosure. If the control functions make it impracticable to energize the control, interlock or indicator circuit from the load side of a motor and control disconnect device, each conductor of such a circuit, except those vital circuits identified in § 182.710 of this subchapter, must be disconnected from all sources of potential by a disconnect device actuated by the opening of the controller door. The disconnect device and its connections, including each terminal block for terminating the vessel's wiring, must not have any electrically unshielded or uninsulated surfaces.

(j) Switchboards and distribution panels must be adequately sized for the expected loads.

§ 183.340 Cable and wiring requirements.

(a) If individual wires, rather than cable, are used in systems greater than 50 volts, the wire must be run in a protective enclosure. The protective enclosure must have drain holes to prevent the build up of condensation.

(b) All cable and wire must:

(1) Have stranded copper conductors with sufficient current carrying capacity for the circuit in which they are used;

(2) Be installed in a manner to avoid or reduce interference with radio reception and compass indication;

(3) Be protected from the weather;

(4) Be installed with metal supports spaced not more than 24 inches apart, and in such a manner as to avoid chafing and other damage. The use of plastic tie wraps must be limited to bundling or retention of multiple cable installations, and not used as a means of support, except that on vessels of not more than 65 feet in length, installations in accordance with paragraph 14.h of ABYC E–8 and paragraph 15.h of ABYC E–9 are acceptable as meeting the requirements of this section;

(5) Not be installed with sharp bends;

(6) Be protected by metal coverings or other suitable means if in areas subject to mechanical abuse;

(7) Be suitable for low temperature and high humidity if installed in refrigerated compartments;

(8) Not be located in a tank unless the cable provides power to equipment in the tank; and

(9) Have sheathing or wire insulation compatible with the fluid in a tank when installed as allowed by paragraph (b)(8) of this section.

(c) Conductors in power and lighting circuits must be No. 14 AWG or larger. Conductors in control and indicator circuits must be No. 22 AWG or larger.

(d) Cable and wire for power and lighting circuits must:

(1) Meet Section 310–13 of the NEC (NFPA 70), except that asbestos insulated cable and dry location cables can not be used;

(2) Be listed by Underwriters Laboratories Inc. as UL Boat or UL Marine cable; or

(3) Meet § 111.60–1 of this chapter.

(e) Cable or wire serving vital systems listed in § 182.710 of this subchapter or emergency loads must be routed as far as practicable from high risk fire areas such as galleys, laundries, and machinery spaces.

(f) Cable or wire serving duplicated equipment must be separated so that a casualty that affects one cable does not affect the other.

(g) Each connection to a conductor or terminal part of a conductor that is larger than No. 10 AWG must be made within an enclosure and have:

(1) A pressure type connector on each conductor;

(2) A solder lug on each conductor;

(3) A splice made with a pressure type connector to a flexible lead or conductor; or

(4) A splice that is soldered, brazed, or welded to a flexible lead or conductor.

(h) Each connection to a conductor or a terminal part of a conductor that is No. 10 AWG or smaller must be made within an enclosure and:

(1) Meet paragraph (g) of this section; or

(2) Have clamps or screws with terminal plates that have turned lugs or other suitable means to capture the terminal.

(i) A connector or lug of the set screw type must not be used with a stranded conductor smaller than No. 14 AWG except if there is a nonrotating follower that travels with the set screw and makes pressure contact with the conductor.

(j) Each pressure type wire connector and lug must meet UL 486A. The use of wire nuts is prohibited.

(k) Each terminal block must have 6–32 terminal screws or larger.

(l) Wire connectors utilized in conjunction with screw type terminal blocks must be of the captive type such as the ring or the flanged spade type.

(m) A cable must not be spliced in:

(1) A hazardous location; or

(2) In another location except:

(i) A cable installed in a subassembly may be spliced to a cable installed in another subassembly;

(ii) For a vessel receiving alterations, a cable may be spliced to extend a circuit;

(iii) A cable having a large size or exceptional length may be spliced to facilitate its installation; and

(iv) A cable may be spliced to replace a damaged section of the cable if, before replacing the damaged section, the insulation resistance of the remainder of the cable is measured, and it is determined that the condition of the insulation is unimpaired.

(n) All material in a cable splice must be chemically compatible with all other material in the splice and with the materials in the cable.

(o) Ampacities for conductors must meet Section 310–15 of the NEC (NFPA 70) or IEEE Standard 45, as appropriate.

(p) Conductors must be sized so that the voltage drop at the load terminals does not exceed 10 percent. Table 183.340(p) indicates the size of conductor required for corresponding lengths and steady state (stable) values to obtain not more than this voltage drop at the load terminals of a two conductor circuit.

TABLE 183.340(p).—CONDUCTOR SIZES FOR AMPERES—LENGTHS

Total current on circuit, amperes	Length of conductor in feet from source of current to most distant fixture										
	10	15	20	25	30	35	40	45	50	55	60
	12 volts, 2-wire—10 percent drop wire sizes (A.W.G.)										
5	14	14	14	14	14	14	14	14	12	12	12
10	14	14	14	12	12	12	10	10	10	10	8
15	14	14	12	10	10	10	8	8	8	8	8
20	12	12	10	10	8	8	8	8	6	6	6
25	10	10	10	8	8	8	6	6	6	6	4

Other values can be computed by means of the following formula:

$$cm = \frac{K \times I \times L(\times 2 \text{ for two-wire circuit})}{E} \quad (1)$$

Where:
cm=Circular-mil area of conductor.
K=10.75 (a constant representing the mil-foot resistance of copper).
I=Load current, in amperes.
L=Length of conductor from center of distribution, in feet.
E=Voltage drop at load, in volts.

(q) If used, each armored cable metallic covering must:

(1) Be electrically continuous; and

(2) Be grounded at each end of the run to:

(i) The metallic hull; or

(ii) The common ground plate on nonmetallic vessels; and

(3) Have final sub-circuits grounded at the supply end only.

(r) A portable or temporary electric cord or cable must be constructed and used in compliance with the requirements of § 111.60–13 of this chapter for a flexible electric cord or cable.

§ 183.350 Batteries—general.

(a) Where provisions are made for charging batteries, there must be natural or induced ventilation sufficient to dissipate the gases generated.

(b) Each battery must be located as high above the bilge as practicable, secured to protect against shifting with the roll and pitch of the vessel, and free from exposure to water splash or spray.

(c) Batteries must be accessible for maintenance and removal.

(d) Connections must be made to battery terminals with permanent type connectors. Spring clips or other temporary type clamps are prohibited.

(e) Batteries must be mounted in trays lined with, or constructed of, a material which is resistant to damage by the electrolyte.

(f) Battery chargers must have an ammeter connected in the charging circuit.

(g) If the batteries are not adjacent to a distribution panel or switchboard which distributes power to the lighting, motor, and appliance circuits, the battery lead must have a fuse in series as close as practicable to the battery.

(h) Batteries used for engine starting are to be located as close as possible to the engine or engines served.

§ 183.352 Battery categories.

This section applies to batteries installed to meet the requirements of § 183.310 for secondary sources of power to vital loads, or sources of power to final emergency loads.

(a) *Large.* A large battery installation is one connected to a battery charger having an output of more than 2 kw, computed from the highest possible charging current and the rated voltage of the battery installation.

(b) *Small.* A small battery installation is one connected to a battery charger having an output of 2 kw or less, computed from the highest possible charging current and the rated voltage of the battery installation.

§ 183.354 Battery installations.

(a) *Large batteries.* Each large battery installation must be located in a locker, room or enclosed box solely dedicated to the storage of batteries. Ventilation must be provided in accordance with § 111.15–10 of this chapter. Electrical equipment located within the battery enclosure must be approved by an independent laboratory for Class I, Division 1, Group B hazardous locations and meet part 111, subpart 111.105 of this chapter.

(b) *Small batteries.* Each small battery installation must be located in a well ventilated space and protected from falling objects. A small battery installation must not be in a closet, storeroom, or similar space.

§ 183.360 Semiconductor rectifier systems.

(a) Each semiconductor rectifier system must have an adequate heat removal system that prevents overheating.

(b) Where a semiconductor rectifier system is used in a propulsion system or in other vital systems it must:

(1) Have a current limiting circuit;

(2) Have external overcurrent protection; and

(3) Meet sections 35.84.2 and 35.84.4 of the ABS "Rules for Building and Classing Steel Vessels."

§ 183.370 System and equipment grounding.

(a) All metallic enclosures and frames of electrical equipment must be permanently grounded to the hull on a metallic vessel. On a nonmetallic vessel the enclosures and frames of electrical equipment must be bonded together to a common ground by a normally non-current carrying conductor. Metallic cases of instruments and secondary windings of instrument transformers must be grounded.

(b) If a grounded distribution system is provided, there must be only one connection to ground, regardless of the number of power sources. This ground connection must be at the switchboard or at the common ground plate, which must be accessible.

(c) Each propulsion, power, lighting, or distribution system having a neutral bus or conductor must have the neutral grounded.

(d) The neutral of each grounded generation and distribution system must be grounded at the generator switchboard and have the ground connection accessible for checking insulation resistance of the generator to ground before the generator is connected to the bus, except the neutral of an emergency power generation system must be grounded with:

(1) No direct ground connection at the emergency switchboard;

(2) The neutral bus permanently connected to the neutral bus on the main switchboard; and

(3) No switch, circuit breaker, or fuse in the neutral conductor of the bus-tie feeder connecting the emergency switchboard to the main switchboard.

(e) On a nonmetallic vessel where a ground plate is provided for radio equipment, it must be connected to the common ground.

(f) On a metallic vessel a grounded alternating current system must be grounded to the hull. On a nonmetallic vessel the neutral must be connected to the common ground, except that aluminum grounding conductors must not be used.

(g) Equipment grounding conductors must be sized in accordance with Section 250–95 of the NEC (NFPA 70).

(h) Each insulated grounding conductor of a cable must be identified by one of the following means:

(1) A green braid or green insulation;

(2) Stripping the insulation from the entire exposed length of the grounding conductor; or

(3) Marking the exposed insulation of the grounding conductor with green tape or green adhesive labels.

(i) A vessel's hull must not carry current as a conductor except for the following systems:

(1) Impressed current cathodic protection systems; or

(2) Battery systems for engine starting.

(j) Gable armor must not be used to ground electrical equipment or systems.

(k) Receptacle outlets and attachment plugs for portable lamps, tools, and similar apparatus operating at 100 volts or more, must have a grounding pole and a grounding conductor in the portable cord.

(l) Each nonmetallic mast and top mast must have a lightning ground conductor.

§ 183.380 Overcurrent protection.

(a) Overcurrent protection must be provided for each ungrounded conductor for the purpose of opening the electric circuit if the current reaches a value that causes an excessive or dangerous temperature in the conductor or conductor insulation.

(b) A conductor of a control, interlock, or indicator circuit, such as a conductor

for an instrument, pilot light, ground detector light, or potential transformer, must be protected by an overcurrent device.

(c) Each generator must be protected by an overcurrent device set at a value not exceeding 115 per cent of the generator full load rating.

(d) All circuits other than steering system circuits must be protected against both overload and short circuit.

(e) Each steering gear feeder circuit must be protected by a circuit breaker that meets the requirements of paragraphs (a) and (b) of § 111.93–11 of this chapter.

(f) Each lighting branch circuit must be protected against overcurrent either by fuses or circuit breakers rated at not more than 30 amperes.

(g) Conductors must be protected in accordance with their current carrying capacities. If the allowable current carrying capacity does not correspond to a standard device size, the next larger overcurrent device may be used provided it does not exceed 150 per cent of the conductor current carrying capacity.

(h) Overcurrent devices capable of carrying the starting current of the motor must be installed to protect motors, motor conductors, and control apparatus against:

(1) Overcurrent due to short circuits or ground faults; and

(2) Overload due to motor running overcurrent, in accordance with § 111.70–1 of this chapter. A protective device integral with the motor, which is responsive to both motor current and temperature, may be used.

(i) An emergency switch must be provided in the normally ungrounded main supply conductor from a battery. The switch must be accessible and located as close to the battery as practicable.

(j) The grounded conductor of a circuit must not be disconnected by a switch or circuit breaker, unless the ungrounded conductors are simultaneously disconnected.

(k) Disconnect means must be provided on the supply side of and adjacent to all fuses for the purpose of de-energizing the fuses for inspection and maintenance purposes.

(l) If the disconnect means is not within sight of the equipment that the circuit supplies, means must be provided for locking the disconnect device in the open position.

(m) Fuses must be of the cartridge type only and be listed by Underwriters Laboratories or another independent laboratory recognized by the Commandant.

(n) Each circuit breaker must meet UL 489 and be of the manually reset type designed for:

(1) Inverse time delay;

(2) Instantaneous short circuit protection; and

(3) Switching duty if the breaker is used as a switch.

(o) Each circuit breaker must indicate whether it is in the open or closed position.

§ 183.390 Shore power.

A vessel with an electrical system operating at more than 50 volts, which is provided with a means to connect to shore power, must meet the following:

(a) A shore power connection box or receptacle must be permanently installed at a convenient location;

(b) A cable connecting the shore power connection box or receptacle to the switchboard or main distribution panel must be permanently installed;

(c) A circuit breaker must be provided at the switchboard or main distribution panel for the shore power connection; and

(d) The circuit breaker, required by paragraph (c) of this section, must be interlocked with the vessel's power sources so that shore power and the vessel's power sources may not be operated simultaneously.

§ 183.392 Radiotelephone installations.

A separate circuit, with overcurrent protection at the main distribution panel, must be provided for each radiotelephone installation.

Subpart D—Lighting Systems

§ 183.410 Lighting fixtures.

(a) Each lighting fixture globe, lens, or diffuser must have a guard or be made of high strength material, except in an accommodation space, radio room, galley, or similar space where it is not subject to damage.

(b) A lighting fixture may not be used as a connection box for a circuit other than the branch circuit supplying the fixture.

(c) A lighting fixture must be installed as follows:

(1) Each fixture must comply with § 183.200.

(2) Each lighting fixture and lampholder must be fixed. A fixture must not be supported by the screw shell of a lampholder.

(3) Each pendant type lighting fixture must be suspended by and supplied through a threaded, rigid conduit stem.

(4) Each table lamp, desk lamp, floor lamp, or similar equipment must be secured in place so that it cannot be displaced by the roll or pitch of the vessel.

(d) A exterior lighting fixture in an electrical system operating at more than 50 volts must comply with the requirements of UL 595. A lighting fixture in an accommodation space, radio room, galley or similar interior space may comply with UL 57, 1570, 1571, 1572, 1573, or 1574.

§ 183.420 Navigation lights.

All vessels must have navigation lights that are in compliance with the applicable sections of the International and Inland Navigation Rules, except that a vessel of more than 65 feet in length must also have navigation lights that meet UL 1104.

§ 183.430 Portable lights.

Each vessel must be equipped with at least two portable battery lights. One of these lights must be located at the operating station and the other at the access to the propulsion machinery space.

§ 183.432 Emergency lighting.

(a) Each vessel must have adequate emergency lighting fitted along the line of escape to the main deck from all passenger and crew accommodation spaces located below the main deck.

(b) The emergency lighting required by paragraph (a) of this section must automatically actuate upon failure of the main lighting system. If a vessel is not equipped with a single source of power for emergency lighting, it must have individual battery powered lights which:

(1) Are automatically actuated upon loss of normal power;

(2) Are not readily portable;

(3) Are connected to an automatic battery charger; and

(4) Have sufficient capacity for a minimum of 6 hours of continuous operation.

Subpart E—Miscellaneous Systems and Requirements

§ 183.520 Lifeboat winches.

Each electric power operated lifeboat winch must meet part 111, subpart 111.95 and part 160, subpart 160.015 of this chapter.

§ 183.530 Hazardous areas.

(a) Electrical equipment in spaces containing machinery powered by, or fuel tanks for, gasoline or other fuels having a flashpoint of 110°F or lower must be explosion-proof or ignition-protected, or be part of an intrinsically safe system.

(b) Electrical equipment in lockers used to store paint, oil, turpentine, or other flammable liquids must be

explosion-proof or be part of an intrinsically safe system.

(c) Explosion-proof equipment and intrinsically safe systems must meet the requirements of part 111, subpart 111.105 of this chapter.

§ 183.540 Elevators.

Each electric power, control, and interlock circuit of an elevator on a vessel must meet the requirements of ANSI A17.1.

§ 183.550 General alarm systems.

All vessels with overnight accommodations must be equipped with a general alarm system. The public address system required by § 184.610 of this subchapter may be used to sound the general alarm signal.

PART 184—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

Subpart A—General Provisions

Sec.

184.100 General requirement.
184.115 Applicability to existing vessels.

Subpart B—Cooking and Heating

184.200 General.
184.202 Restrictions.
184.210 Heating equipment.
184.220 Cooking equipment.
184.240 Gas systems.

Subpart C—Mooring and Towing Equipment

184.300 Ground tackle and mooring lines.

Subpart D—Navigation Equipment

184.402 Compasses.
184.404 Radars.
184.410 Electronic position fixing devices.
184.420 Charts and nautical publications.

Subpart E—Radio

184.502 Requirements of the Federal Communications Commission.
184.506 Emergency broadcast placard.

Subpart F—Control and Internal Communication Systems

184.602 Internal communication systems.
184.610 Public address systems.
184.620 Propulsion engine control systems.

Subpart G—Miscellaneous

184.702 Oil pollution prevention equipment and procedures.
184.704 Marine sanitation devices.
184.710 First aid kits.

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 184.100 General requirement.

(a) Vessel control systems and other miscellaneous systems and equipment required by this part must be suitable for the purposes intended.

(b) The cognizant OCMI may require navigation, control, or communication equipment, in excess of the equipment specifically required by this part, on a vessel which is of a novel design, operates at high speeds in restricted or high traffic areas, operates in a dynamically supported mode, or operates on extended routes or in remote locations.

§ 184.115 Applicability to existing vessels.

(a) An existing vessel need not comply with §§ 184.402(c), 184.404, 184.410, and 184.602 unless the cognizant OCMI specifically requires compliance due to the route or service of the vessel.

(b) An existing vessel need not comply with the requirements of § 184.610 until [*date 5 years after effective date of the final rule*], or 10 years after its keel was laid or the vessel was at a similar stage of construction, whichever is later.

(c) An existing vessel need not comply with the requirements of § 184.710 until [*date 1 year after effective date of the final rule*].

Subpart B—Cooking and Heating

§ 184.200 General.

Cooking and heating equipment must be suitable for marine use. Equipment designed and installed in accordance with ABYC A–3 and A–7, or with NFPA 302 complies with this requirement, except as restricted by § 184.202.

§ 184.202 Restrictions.

(a) The use of gasoline for cooking, heating, or lighting is prohibited on all vessels.

(b) Fireplaces or other heating and cooking equipment with open flames are prohibited from being used on all vessels.

(c) Vessels permitted to use liquefied and non-liquefied gases as cooking fuels by 46 CFR part 147 must meet the requirements of § 184.240. The use of these fuels for cooking, heating, and lighting on ferry vessels is prohibited by 46 CFR part 147.

§ 184.210 Heating equipment.

(a) Each heater must be so constructed and installed as to prevent the hanging from it of items such as towels and clothing.

(b) Each electric space heater must be provided with a thermal cutout to prevent overheating.

(c) Each heater element of an electric space heater must be of an enclosed type, and the element case or jacket must be made of a corrosion resistant material.

§ 184.220 Cooking equipment.

(a) Doors on a cooking appliance must be provided with heavy duty hinges and locking devices to prevent accidental opening in heavy seas.

(b) A cooking appliance must be installed to prevent movement in heavy seas.

(c) For a grill or similar type of cooking appliance, means must be provided to collect grease or fat and to prevent its spillage on wiring or the deck.

(d) Grab rails must be installed on a cooking appliance when determined by the cognizant OCMI to be necessary for safety.

(e) Sea rails, with suitable barriers to prevent accidental movement of cooking pots, must be installed on a cooking range.

(f) Electric connections for a cooking appliance must be dripproof.

§ 184.240 Gas systems. [Reserved]

[Note: The regulations in 46 CFR 184.05–1 will be redesignated as § 184.240 when a final rule is published.]

Subpart C—Mooring and Towing Equipment

§ 184.300 Ground tackle and mooring lines.

A vessel must be fitted with ground tackle and mooring lines necessary for the vessel to be safely anchored and moored. The ground tackle and mooring lines provided must be satisfactory for the size of the vessel, the waters on which the vessel operates, and other operating hazards, subject to the approval of the cognizant OCMI.

Subpart D—Navigation Equipment

§ 184.402 Compasses.

(a) Except as otherwise provided in this section every vessel must be fitted with a suitable magnetic compass designed for marine use, to be mounted at the primary operating station.

(b) The following vessels need not be fitted with a compass:

(1) A vessel on a rivers route;

(2) A nonself-propelled vessel; and

(3) A vessel operating on short restricted routes on lakes, bays, and sounds.

(c) Except on a vessel limited to daytime operations, the compass must be illuminated.

§ 184.404 Radars.

(a) A vessel must be fitted with a FCC type accepted general marine radar system for surface navigation with a radar screen mounted at the primary operating station if:

(1) The vessel is self-propelled;

(2) The vessel has an oceans, coastwise, or Great Lakes route; and

(3) The vessel carries more than 49 passengers.

(b) A ferry which carries more than 49 passengers on a rivers route not within one mile of land must be fitted with a Federal Communications Type Accepted general marine radar system for surface navigation with a radar screen mounted at the primary operating station.

(c) The radar and its installation must be suitable for the intended speed and route of the vessel.

(d) A vessel operated on a short restricted route need not be fitted with a radar if the cognizant OCMI determines that a radar is not necessary due to the vessel's route and local weather conditions.

§ 184.410 Electronic position fixing devices.

A vessel on an oceans route must be equipped with an electronic position fixing device, capable of providing accurate fixes for the area in which the vessel operates, to the satisfaction of the cognizant OCMI.

§ 184.420 Charts and nautical publications.

(a) As appropriate for the intended voyage, a vessel must carry adequate and up-to-date:

(1) Charts of large enough scale to make safe navigation possible;

(2) U.S. Coast Pilot or similar publication;

(3) Coast Guard Light List;

(4) Tide tables published by the National Ocean Service; and

(5) Current tables published by the National Ocean Service, or a river current publication issued by the U.S. Army Corps of Engineers or a river authority.

(b) Extracts from the publications listed above for the areas to be transited may be provided instead of the complete publication.

Subpart E—Radio

§ 184.502 Requirements of the Federal Communications Commission.

A vessel must comply with the applicable requirements for any radio and EPIRB installations, including the requirements for a station license and installation certificates to be issued by the Federal Communications Commission, as set forth in 47 CFR part 80.

§ 184.506 Emergency broadcast placard.

A durable placard must be posted next to all radiotelephone installations with the following instructions and information, specific to the individual vessel, indicated on it:

Emergency Broadcast Procedures

(1) Make sure your radiotelephone is on.

(2) Select 156.8 mHz (channel 16 VHF) or 2182 kHz. (Channel 16 VHF and 2182 kHz on SSB are for emergency and calling purposes only.)

(3) Press microphone button and, speaking slowly—clearly—calmly, say:

"MAYDAY—MAYDAY—MAYDAY"

for situations involving Immediate Danger to Life and Property; and

"PAN—PAN—PAN"

for urgent situations where there is No Immediate Danger to Life or Property.

(4) Say: "THIS IS (VESSEL'S NAME), (VESSEL'S NAME), (VESSEL'S NAME), (VESSEL'S CALL SIGN), OVER."

(5) Release the microphone button briefly and listen for acknowledgment. If no one answers, repeat steps 3 & 4.

(6) If there is no acknowledgment, or if the Coast Guard or another vessel responds, say: "MAYDAY" or "PAN", (VESSEL'S NAME)."

(7) DESCRIBE YOUR POSITION using latitude and longitude coordinates, LORAN coordinates, or range and bearing from a known point.

(8) STATE THE NATURE OF THE DISTRESS.

(9) GIVE NUMBER OF PERSONS ABOARD AND THE NATURE OF ANY INJURIES.

(10) ESTIMATE THE PRESENT SEAWORTHINESS OF YOUR VESSEL.

(11) BRIEFLY DESCRIBE YOUR VESSEL: (LENGTH, COLOR, HULL TYPE, TRIM, MASTS, POWER, ANY ADDITIONAL DISTINGUISHING FEATURES).

(12) Say: "I WILL BE LISTENING ON CHANNEL 16/2182."

(13) End message by saying: "THIS IS (VESSEL'S NAME & CALL SIGN)."

(14) If your situation permits, stand by the radio to await further communication with the Coast Guard or another vessel. If no answer, repeat, then try another channel.

Subpart F—Control and Internal Communication Systems

§ 184.602 Internal communication systems.

(a) A vessel equipped with pilothouse control must have a fixed means of two-way communication from the operating station to the location where the means of controlling the propulsion machinery, required by § 184.620(a), is located. Twin screw vessels with pilothouse control for both engines are not required to have a fixed communications system.

(b) A vessel equipped with auxiliary means of steering, required by § 182.620 of this subchapter, must have a fixed means of two-way communication from the operating station to the location where the auxiliary means of steering is controlled.

(c) When the propulsion machinery of a vessel cannot be controlled from the operating station, an efficient communication system must be provided between the operating station and the propulsion machinery space.

(d) When the locations addressed in paragraphs (a), (b), and (c) of this section are sufficiently close together, direct voice communication satisfactory to the cognizant OCMI is acceptable instead of the required fixed means of communications.

(e) The OCMI may accept hand held portable radios as satisfying the communications system requirement of this section.

§ 184.610 Public address systems.

(a) Except as noted in paragraphs (d) and (e) of this section, each vessel must be equipped with a public address system.

(b) On a vessel of more than 65 feet in length, the public address system must be a fixed installation and be audible during normal operating conditions throughout the accommodation spaces and all other spaces normally manned by crew members.

(c) A vessel with more than one passenger deck and a vessel with overnight accommodations must have the public address system operable from the operating station.

(d) On a vessel of not more than 65 feet in length, a battery powered bullhorn may serve as the public address system if audible throughout the accommodation spaces of the vessel during normal operating conditions. The bullhorn's batteries are to be continually maintained at a fully charged level by use of a battery charger or other means acceptable to the cognizant OCMI.

(e) On a vessel of not more than 65 feet in length carrying not more than 49 passengers, a public address system is not required if a public announcement made from the operating station without amplification can be heard throughout the accommodation spaces of the vessel during normal operating conditions, to the satisfaction of the cognizant OCMI.

§ 184.620 Propulsion engine control systems.

(a) A vessel must have two independent means of controlling each propulsion engine. Control must be provided for the engine speed, direction of shaft rotation, and engine shutdown.

(1) One of the means may be the ability to readily disconnect the remote engine control linkage to permit local operation.

(2) A multiple engine vessel with independent remote propulsion control for each engine need not have a second means of controlling each engine.

(b) In addition to the requirements of paragraph (a), a vessel must have a reliable means for shutting down a propulsion engine, which is independent of the engine's speed control, located at the main pilothouse control station.

(c) A propulsion engine control system, including pilothouse control, must be designed so that a loss of power to the control system does not result in an increase in shaft speed or propeller pitch.

Subpart G—Miscellaneous

§ 184.702 Oil pollution prevention equipment and procedures.

A vessel must comply with the applicable design, equipment, personnel, procedures, and record requirements of 33 CFR parts 151, 155, and 156.

§ 184.704 Marine sanitation devices.

A vessel with installed toilet facilities must have a marine sanitation device which complies with 33 CFR part 159.

§ 184.710 First aid kits.

A vessel must carry a first aid kit approved under part 160, subpart 160.041 of this chapter or a kit with equivalent contents, instructions, and markings. The contents must be stowed in a suitable container, easily visible and readily available to the crew.

PART 185—OPERATIONS

Subpart A—General Provisions

Sec.
185.100 General requirement.
185.115 Applicability to existing vessels.

Subpart B—Marine Casualties and Voyage Records

185.202 Notice of casualty.
185.204 Substance of marine casualty notice.
185.206 Written report of marine casualty.
185.208 Damage to pressure vessels.
185.210 Alcohol or drug use by individuals directly involved in casualties.
185.212 Mandatory chemical testing following serious marine incidents.
185.220 Records of a voyage resulting in a marine casualty.
185.230 Report of accident to aid to navigation.
185.250 Assistance required.
185.260 Reports of potential vessel casualty.
185.280 Official logbook for foreign voyages.

Subpart C—Miscellaneous Operating Requirements

185.304 Navigation underway.
185.310 Compliance with provisions of Certificate of Inspection.
185.315 Verification of vessel compliance with applicable stability requirements.
185.320 Steering gear, controls, and communication system tests.
185.330 Hatches and other openings.
185.335 Loading doors.
185.340 Vessels carrying vehicles.
185.350 Fueling of vessels using fuel having a flash point of 110°F, or lower (gasoline, etc.).
185.352 Ventilation of gasoline machinery spaces.
185.356 Carriage of hazardous materials.
185.360 Use of auto pilot.
185.370 Reckless or negligent operation.

Subpart D—Crew Requirements

185.402 Licenses.
185.410 Watchmen.
185.420 Crew training.

Subpart E—Preparations for Emergencies

185.502 Crew and passenger list, and voyage plan.
185.504 Passenger count.
185.506 Passenger safety orientation.
185.508 Wearing of lifejackets.
185.510 Emergency instructions.
185.512 Emergency instruction placard format.
185.514 Station bill.
185.516 Lifejacket placards.
185.518 Inflatable survival craft placards.
185.520 Abandon ship and man overboard drills and training.
185.524 Fire fighting drills and training.
185.530 Responsibilities of licensed individuals.

Subpart F—Markings Required

185.602 Hull markings.
185.604 Lifesaving equipment markings.
185.606 Escape hatches and emergency exits.
185.608 Fuel shutoff valves.
185.610 Watertight doors and watertight hatches.
185.612 Fire protection equipment.

Subpart G—Operational Readiness, Maintenance, and Inspection of Lifesaving Equipment

185.700 Operational readiness.
185.702 Maintenance.
185.704 Maintenance of falls.
185.720 Weekly maintenance and inspections.
185.722 Monthly inspections.
185.724 Quarterly inspections.
185.726 Annual inspections.
185.728 Testing and servicing of Emergency Position Indicating Radiobeacons (EPIRBs).
185.730 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable lifejackets, and inflated rescue boats.
185.740 Periodic servicing of hydrostatic release units.

Subpart H—Penalties

185.900 Penalty for violations.
185.910 Suspension and revocation.

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart A—General Provisions

§ 185.100 General requirement.

A vessel must be operated in accordance with applicable laws and regulations and in such a manner as to afford adequate precaution against hazards which might endanger the vessel and the persons being transported.

§ 185.115 Applicability to existing vessels.

(a) An existing vessel need not comply with the hull marking requirements in § 185.602(b) until completion of a vessel's first drydock required by § 176.600 of this subchapter, which occurs after [*effective date of the final rule*].

(b) An existing vessel need not comply with the marking requirements in §§ 185.604 and 185.610, where the size and contents of the markings required by §§ 185.604 and 185.610 vary from the size and contents of required markings on lifesaving equipment, watertight doors, and watertight hatches on the vessel prior to [*effective date of the final rule*], until the existing markings are no longer legible as determined by the cognizant OCMI.

(c) An existing vessel need not comply with the requirements of §§ 185.514, 185.516, and 185.604(j) until completion of the first inspection for certification which occurs after [*effective date of the final rule*].

Subpart B—Marine Casualties and Voyage Records

§ 185.202 Notice of casualty.

(a) The owner, agent, master, or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) An accidental grounding, or any intentional grounding which meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function for any period of time.

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, failure of or damage to fixed fire extinguishing systems, lifesaving

equipment, auxiliary power generating equipment, or bilge pumping systems.

(4) Loss of life.

(5) Injury which requires professional medical treatment beyond first aid and, in the case of a person engaged or employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties.

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000. Damage cost includes the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage.

(b) A vessel is excluded from the requirements of paragraphs (a)(4) and (a)(5) of this section with respect to the death or injury of shipyard or harbor workers when such accidents are not the result of either a vessel casualty (e.g., collision) or a vessel equipment casualty (e.g., cargo boom failure) and are subject to the reporting requirements of the Occupational Safety and Health Administration under 29 CFR part 1904.

§ 185.204 Substance of marine casualty notice.

The notice required in § 185.202 must include the name and official number (or the number issued in accordance with 33 CFR part 173) of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

§ 185.206 Written report of marine casualty.

(a) In addition to the notice required by § 185.202, the owner, master, agent, or person in charge of the vessel shall, within five days, report in writing to the OCMI at the port in which the casualty occurred or nearest the port of first arrival. The written report required for vessel or personnel accidents must be made on Form CG–2692.

(b) If filed without delay, the Form CG–2692 may also provide the notice required by § 185.202.

§ 185.208 Damage to pressure vessels.

The owner, managing operator, or master shall report damage to a boiler or unfired pressure vessel, which renders further use of the item unsafe until repairs are made, to the OCMI at the port in which the casualty occurred or nearest the port of first arrival, as soon as practicable after the damage occurs.

§ 185.210 Alcohol or drug use by individuals directly involved in casualties.

(a) For each marine casualty required to be reported by § 185.202, the owner, agent, master, or person in charge of the vessel shall determine whether there is any evidence of alcohol or drug use by individuals directly involved in the casualty.

(b) The owner, agent, master, or person in charge of the vessel shall include in the written report, Form CG 2692, submitted for the casualty information which:

(1) Identifies those individuals for whom evidence of drug or alcohol use, or evidence of intoxication, has been obtained; and

(2) Specifies the method used to obtain such evidence, such as personal observation of the individual, or by chemical testing of the individual.

(c) An entry must be made in the Official Logbook if carried, pertaining to those individuals for whom evidence of intoxication is obtained. The individual shall be informed of this entry and the entry shall be witnessed by a second person.

(d) If an individual directly involved in a casualty refuses to submit to, or cooperate in, the administration of a timely chemical test, when directed by a Coast Guard commissioned, warrant, or petty officer, or any other law enforcement officer authorized to obtain a chemical test under Federal, state, or local law, or by the owner, agent, master, or person in charge, this fact must be noted in the Official Logbook, if carried, and in the written report (Form CG 2692), and will be admissible as evidence in any administrative proceeding.

§ 185.212 Mandatory chemical testing following serious marine incidents.

A marine employer whose vessel is involved in a casualty or incident which is, or is likely to become, a serious marine incident as defined in § 4.03–2 of this chapter shall comply with the requirements of part 4, subpart 4.06 of this chapter.

§ 185.220 Records of a voyage resulting in a marine casualty.

The owner, agent, master, or person in charge of any vessel involved in a marine casualty for which a report is required under § 185.202 shall retain all voyage records maintained by the vessel, including rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyrocompass records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and received, radio logs, crew and passenger lists and counts, articles of shipment, official logs, and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer, or person responsible for the custody thereof, shall make these records available upon request, to a duly authorized investigating officer, administrative law judge, officer or employee of the Coast Guard.

§ 185.230 Report of accident to aid to navigation.

Whenever a vessel collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, the person in charge of such vessel shall report the accident to the nearest OCMI. No report on Form CG 2692 is required unless otherwise required under § 185.202.

§ 185.250 Assistance required.

(a) The master of a vessel involved in a collision, accident, or other casualty, shall render all practicable and necessary assistance to persons affected by the collision, accident, or casualty to the extent possible without serious danger to his or her own vessel or persons aboard. The master shall also give his or her name, address, and the identification of his or her vessel to any person injured and to the owner of any property damaged.

(b) The master of a vessel shall render assistance to any individual found at sea in danger of being lost, so far as the master can do so without seriously endangering the master's vessel or individuals on board.

§ 185.260 Reports of potential vessel casualty.

(a) An owner, charterer, managing operator, or agent of a vessel shall immediately notify either of the following Coast Guard offices if there is reason to believe the vessel is lost or imperiled:

(1) The Coast Guard district rescue coordination center (RCC) cognizant over the area in which the vessel was last operating; or

(2) The Coast Guard search and rescue authority nearest to where the vessel was last operating.

(b) Reasons for belief that a vessel is in distress include, but are not limited to, lack of communication with or nonappearance of the vessel.

(c) The owner, charterer, managing operator, or agent notifying the Coast Guard under paragraph (a) of this section, shall:

(1) Provide the name and identification number of the vessel, a

description of the vessel, the names or number of individuals on board, and other information that may be requested by the Coast Guard; and

(2) Submit written confirmation within 24 hours to the Coast Guard facility to which notice was given of the possibility of the vessel being in distress, unless the original notice was in writing.

§ 185.280 Official Logbook for foreign voyages.

(a) Every vessel on a voyage from a port in the United States to a foreign port except to a port in Canada, or vice versa, must have an Official Logbook.

(b) The master shall make or have made in the Official Logbook the following entries:

(1) Each legal conviction of a seaman of the vessel and the punishment inflicted;

(2) Each offense committed by a seaman of the vessel for which it is intended to prosecute or to enforce under a forfeiture, together with statements about reading the entry and the reply made to the charge as required by 46 U.S.C. 11502;

(3) Each offense for which punishment is inflicted on board and the punishment inflicted;

(4) A statement of the conduct, character, and qualifications of each seaman of the vessel or a statement that the master declines to give an opinion about that conduct, character, and qualifications;

(5) Each illness of or injury to a seaman of the vessel, the nature of the illness or injury, and the medical treatment;

(6) Each death on board, with the cause of death, and if a seaman, the information required by 46 U.S.C. 10702:

(i) The wages due to a seaman who dies during the voyage and the gross amount of all deductions to be made from the wages;

(ii) The sale of the property of a seaman who dies during the voyage, including a statement of each article sold and the amount received for the property.

(7) Each birth on board, with the sex of the infant and name of the parents;

(8) Each marriage on board, with the names and ages of the parties;

(9) The name of each seaman who ceases to be a crew member (except by death), with the place, time, manner, and the cause why the seaman ceased to be a crew member;

(10) When a marine casualty occurs, a statement about the casualty and the circumstances under which it occurred, made immediately after the casualty when practicable to do so.

Subpart C—Miscellaneous Operating Requirements

§ 185.304 Navigation underway.

(a) The master of a vessel underway shall ensure that:

(1) The movement of the vessel is under the direction and control of the master or a licensed mate at all times;

(2) The individual who directs and controls the movement of the vessel is competent to perform that duty and, when necessary, knows:

(i) The magnetic variation of the area being transited, the vessel's deviation (if known), and the gyrocompass error (if the vessel is so equipped);

(ii) The current velocity and direction of the area being transited;

(iii) The predicted set and drift for the area being transited; and

(iv) The tidal state for the area being transited;

(3) If a pilot other than a member of the vessel's crew is employed, the pilot is informed of the draft, maneuvering characteristics, and peculiarities of the vessel and of any abnormal circumstances on the vessel that may affect its safe navigation; and

(4) The equipment required by this part is maintained in operable condition.

(b) The individual directing the movement of the vessel shall:

(1) Ensure that an individual whom the master has determined is competent to steer the vessel is at the helm of the vessel at all times;

(2) Set the vessel's speed with consideration for:

(i) The prevailing visibility and weather conditions;

(ii) The proximity of the vessel to fixed shore and marine structures;

(iii) The comparative proportions of the vessel and the channel;

(iv) The density of marine traffic;

(v) The damage that might be caused by the vessel's wake;

(vi) The strength and direction of the current; and

(vii) Any local vessel speed limit;

(3) Ensure that rudder orders are executed as given;

(4) Ensure that engine speed and direction orders are executed as given;

(5) Correctly apply magnetic variation, and deviation and gyrocompass errors when applicable; and

(6) Evaluate the danger of each closing visual or each closing radar contact.

§ 185.310 Compliance with provisions of Certificate of Inspection.

The master of a vessel shall ensure that all of the provisions of the Certificate of Inspection are strictly adhered to; however, the master may divert from the route prescribed in the Certificate of Inspection or take such other steps as deemed necessary and prudent to assist vessels in distress or for other similar emergencies.

§ 185.315 Verification of vessel compliance with applicable stability requirements.

(a) After loading and prior to departure and at all other times necessary to assure the safety of the vessel, the master shall determine that the vessel complies with all applicable stability requirements in the vessel's trim and stability book, stability letter, Certificate of Inspection, and Load Line Certificate, as the case may be. The vessel may not depart until it is in compliance with these requirements.

(b) When determining compliance with applicable stability requirements the vessel's draft, trim, and stability must be determined as necessary and any stability calculations made in support of the determination must be retained on board the vessel for the duration of the voyage.

(c) If a log book is required, then the master must enter an attestation statement verifying that the vessel complies with the applicable stabilty requirements at the times specified in paragraph (a) of this section.

§ 185.320 Steering gear, controls, and communication system tests.

The master of a vessel shall have examined and tested the steering gear, signaling whistle, propulsion controls, and communication systems of the vessel within 12 hours of getting underway for a voyage, except that such examination and testing need not be conducted more than once in any 24 hour period.

§ 185.330 Hatches and other openings.

(a) Except when operating on lakes, bays, and sounds, or rivers routes in calm weather, all hatches and openings in the hull of a vessel must be kept tightly closed except when being used.

(b) All watertight doors in subdivision bulkheads must be kept tightly closed during the navigation of the vessel except when being used for transit between compartments.

§ 185.335 Loading doors.

(a) The master of a vessel fitted with loading doors shall assure that all loading doors are closed watertight and secured during the entire voyage except that:

(1) If a door cannot be opened or closed while the vessel is at a dock, it may be open while the vessel approaches and draws away from the

dock, but only as far as necessary to enable the door to be immediately operated.

(2) If needed to operate the vessel, or embark and disembark passengers when the vessel is at anchor in protected waters, loading doors may be open provided that the master determines that the safety of the vessel is not impaired.

(b) For the purposes of this section, "loading doors" include all weathertight ramps, bow visors, and openings used to load personnel, equipment, and stores, in the collision bulkhead, the side shell, and the boundaries of enclosed superstructures that are continuous with the shell of the vessel.

(c) If a log book is required, then the master shall make the following entries:

(1) The time and door location of every closing of the loading doors; and

(2) Any opening of the doors in accordance with paragraph (a)(2) of this section setting forth the time of the opening of the doors and the circumstances warranting this action.

§ 185.340 Vessels carrying vehicles.

(a) Automobiles or other vehicles must be stowed in such a manner as to permit both passengers and crew to get out and away from the vehicles freely in the event of fire or other disaster. The decks, where necessary, must be distinctly marked with painted lines to indicate the vehicle runways and the aisle spaces.

(b) The master shall take any necessary precautions to see that automobiles or other vehicles have their motors turned off and their emergency brakes set when the vessel is underway, and that the motors are not started until the vessel is secured to the landing. In addition, a vehicle at each end of a line of vehicles or next to a loading ramp must have its wheels securely blocked, while the vessel is being navigated.

(c) The master shall have appropriate "NO SMOKING" signs posted and shall take all necessary precautions to prevent smoking or carrying of lighted or smoldering pipes, cigars, cigarettes, or similar items in the deck area assigned to automobiles or other vehicles.

(d) The master shall, prior to getting underway, ensure that vehicles are properly distributed consistent with the guidance in the vessel's stability letter and Certificate of Inspection, if applicable.

§ 185.350 Fueling of vessels using fuel having a flash point of 110°F or lower (such as gasoline).

A vessel must not take on fuel having a flash point of 110°F or lower when passengers are on board.

§ 185.352 Ventilation of gasoline machinery spaces.

The mechanical exhaust for the ventilation of a gasoline machinery space, required by § 182.460(a)(1)(ii) of this subchapter, must be operated prior to starting gasoline engines for the time sufficient to insure at least one complete change of air in the space served.

§ 185.356 Carriage of hazardous materials.

A vessel must not be used to transport a hazardous material, listed in 49 CFR 172.101, in commerce unless that material is handled and transported in accordance with 49 CFR parts 171 through 179.

§ 185.360 Use of auto pilot.

Whenever an automatic pilot is used the master shall ensure that:

(a) It is possible to immediately establish manual control of the vessel's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the master or the mate on watch.

§ 185.370 Reckless or negligent operation.

(a) A person shall not operate a vessel subject to the provisions of this subchapter in a negligent manner which endangers the life, limb, or property of any person. Violations of this section involving grossly negligent operation subject the violator, in addition to any other penalties, to the criminal penalties prescribed in 46 U.S.C. 2302.

(b) The master of a vessel subject to the provisions of this subchapter shall not get the vessel underway, nor shall the owner, charterer, or managing operator of the vessel permit the master to get the vessel underway, when any passengers are aboard and the vessel is in an unseaworthy condition or weather or sea conditions make vessel operation unsafe.

Subpart D—Crew Requirements

§ 185.402 Licenses.

Each licensed individual employed upon any vessel subject to the provisions of this subchapter shall have his or her license on board and available for examination at all times when the vessel is operating.

§ 185.410 Watchmen.

The owner, charterer, master, or managing operator of a vessel carrying passengers shall have a suitable number of watchmen patrol throughout the vessel during the nighttime, whether or not the vessel is underway, to guard against, and give alarm in case of. a fire or other danger.

§ 185.420 Crew training.

The owner, charterer, master or managing operator shall instruct each crew member, upon first being employed and prior to getting underway for the first time on a particular vessel and at least once every two months, as to the duties that the crew member is expected to perform in an emergency including, but not limited to, the emergency instructions listed on the emergency instruction placard required by § 185.510 and, when applicable, the duties listed in the station bill required by § 185.514.

Subpart E—Preparations for Emergencies

§ 185.502 Crew and passenger list, and voyage plan.

(a) The owner, charterer, managing operator, or master of the following vessels must keep a correct list of the names of all persons which embark on and disembark from the vessel:

(1) A vessel making an oceans or coastwise voyage;

(2) A vessel making a voyage of more than 300 miles on the Great Lakes, except from a Canadian to a United States port; and

(3) A vessel arriving from a foreign port except at a United States Great Lakes port from a Canadian Great Lakes port.

(b) The master of a vessel required to prepare a crew and passenger list by paragraph (a) of this section shall also prepare a voyage plan. The voyage plan and the list required by paragraph (a) of this section must be prepared prior to departing on a voyage and deposited ashore in a well marked location at the vessel's normal berthing location or with a representative of the owner or managing operator of the vessel.

§ 185.504 Passenger count.

The master of a vessel, except a vessel listed in § 185.502(a), shall keep a correct, written count of all passengers which embark on and disembark from the vessel. Prior to departing on a voyage, the passenger count must be deposited ashore in a well marked location at the vessel's normal berthing location or with a representative of the owner or managing operator of the vessel.

§ 185.506 Passenger safety orientation.

(a) Except as allowed by paragraph (b) of this section, before getting underway on a voyage, the master of a vessel shall ensure that suitable public announcements are made informing all

passengers of the information in this section when applicable to the vessel's operations and arrangement:

(1) A general explanation of emergency and evacuation procedures;

(2) The location of emergency exits and survival craft embarkation areas;

(3) The stowage location of lifejackets;

(4) The proper method of donning and adjusting lifejackets of the type(s) carried on the vessel including a demonstration of the proper donning of a lifejacket prior to beginning an oceans or coastwise voyage;

(5) The location of the instruction placards for lifejackets and other lifesaving devices;

(6) That all passengers will be required to don lifejackets when possible hazardous conditions exist, as directed by the master;

(7) The type and location of survival craft and ring life buoys carried on the vessel;

(8) The location and contents of the "Emergency Instructions" required by § 185.510; and

(9) If the vessel is operating with reduced manning or equipment requirements under § 176.114 of this subchapter.

(b) On a vessel with other than an oceans or coastwise route, as an alternative to making an announcement which complies with paragraph (a) of this section, the master or other designated person may:

(1) Make an abbreviated announcement consisting of:

(i) A statement that passengers should follow the instructions of the crew in an emergency;

(ii) The location of lifejackets; and

(iii) That further information concerning emergency procedures including the donning of lifejackets, location of other emergency equipment, and emergency evacuation procedures are located on the card or pamphlet which was given to each passenger or is located near each seat; and

(2) Prior to getting underway, deliver to each passenger or, on a vessel which does not carry vehicles and which has seats for each passenger, place near each seat, a card or pamphlet which has the information listed in paragraphs (a)(1) through (a)(9) of this section.

(c) The master of a vessel shall ensure that a passenger, who boards the vessel on a voyage after the initial public announcement has been made as required by paragraphs (a) or (b) of this section, is also informed of the required safety information.

(d) On a vessel on a voyage of more than 24 hours duration, passengers shall be requested to don lifejackets and go to the appropriate embarkation station during the safety orientation. If only a small number of passengers embark at a port after the original muster has been held, these passengers shall be given the passenger safety orientation required by paragraphs (a) or

(b) of this section if another muster is not held.

§ 185.508 Wearing of lifejackets.

(a) The master of a vessel shall require passengers to don lifejackets when possible hazardous conditions exist, including, but not limited to:

(1) When transiting hazardous bars and inlets;

(2) During severe weather;

(3) In event of flooding, fire, or other events which may possibly call for evacuation; and

(4) When the vessel is being towed, except a nonself-propelled vessel under normal operating conditions.

(b) When evaluating the need to require the donning of lifejackets, the master shall consider the size of the vessel and the location of the passengers on the vessel.

(c) Any passenger or crew member shall be permitted to voluntarily don a lifejacket whenever he or she desires.

(d) The master or crew shall assist each passenger in obtaining a lifejacket and donning it, as necessary.

§ 185.510 Emergency instructions.

(a) Except as otherwise provided in this section, the master shall prepare and post durable emergency instruction placards in conspicuous places accessible and visible to the crew and passengers.

(b) Except when in the judgment of the cognizant OCMI the operation of a vessel does not present one of the hazards listed, the emergency instruction placard must contain at least the applicable portions of the "Emergency Instructions" listed in § 185.512. The emergency instructions must be further designed to address the particular equipment, arrangement, and operation of each individual vessel.

(c) If the cognizant OCMI determines that there is no suitable mounting surface aboard the vessel, the emergency instructions need not be posted but must be carried aboard the vessel and be available to the crew and passengers for familiarization.

§ 185.512 Emergency instruction placard format.

An emergency instruction placard containing the following information will satisfy the requirements of § 185.510.

EMERGENCY INSTRUCTIONS

(1) *Rough weather at sea, crossing hazardous bars, or flooding.*

(i) Close all watertight and weathertight doors, hatches, and airports to prevent taking water aboard or further flooding in the vessel.

(ii) Keep bilges dry to prevent loss of stability due to water in bilges. Use power driven bilge pump, hand pump, and buckets to dewater.

(iii) Align fire pumps to use as bilge pump if possible.

(iv) Check all intake and discharge lines, which penetrate the hull, for leakage.

(v) Passengers must remain seated and evenly distributed.

(vi) Passengers must don lifejackets if the going becomes very rough, you are about to cross a hazardous bar, or when otherwise instructed by the master.

(vii) Never abandon the vessel unless actually forced to do so.

(viii) If assistance is needed follow the procedures on the emergency broadcast placard posted by the radiotelephone.

(ix) Prepare survival craft (life floats, (inflatable) rafts, (inflatable) buoyant apparatus, boats) for launching.

(2) *Man overboard.*

(i) Throw a ring buoy overboard as close to the person as possible.

(ii) Post a lookout to keep the person overboard in sight.

(iii) Launch rescue boat and maneuver to pick up person in the water, or maneuver the vessel to pick up the person in the water.

(iv) Have crew member put on lifejacket, attach a safety line to him or her, and have him or her stand by to jump into the water to assist the person overboard if necessary.

(v) If person is not immediately located, notify Coast Guard and other vessels in vicinity by radiotelephone.

(vi) Continue search until released by Coast Guard.

(3) *Fire.*

(i) Cut off air supply to fire—close items such as hatches, ports, doors, ventilators, and louvers, and shut off ventilation system.

(ii) Cut off electrical system supplying affected compartment if possible.

(iii) If safe, immediately use portable fire extinguishers at base of flames for flammable liquid or grease fires or water for fires in ordinary combustible materials. Do not use water on electrical fires.

(iv) If fire is in machinery spaces, shut off fuel supply and ventilation and activate fixed extinguishing system if installed.

(v) Maneuver vessel to minimize effect of wind on fire.

(vi) If unable to control fire, immediately notify the Coast Guard and other craft in the vicinity by radiotelephone.

(vii) Move passengers away from fire, have them put on lifejackets, and if necessary, prepare to abandon the vessel.

§ 185.514 Station bill.

(a) A station bill must be posted by the master on a vessel of more than 65 feet in length having a Certificate of Inspection requiring more than four crew members at any one time, including the master.

(b) The station bill required by paragraph (a) of this section must set forth the special duties and duty station

of each crew member for various emergencies. The duties must, as far as possible, be comparable with the regular work of the individual. The duties must include at least the following and any other duties necessary for the proper handling of a particular emergency:

(1) The closing of hatches, airports, watertight doors, vents, scuppers, and valves for intake and discharge lines which penetrate the hull, the stopping of fans and ventilating systems, and the operating of all safety equipment;

(2) The preparing and launching of survival craft and rescue boats;

(3) The extinguishing of fire; and

(4) The mustering of passengers including the following:

(i) Warning the passengers;

(ii) Seeing that they are dressed and have put on their lifejackets.

(iii) Assembling the passengers and directing them to their appointed stations; and

(iv) Keeping order in the passageways and stairways and generally controlling the movement of the passengers.

(c) The station bill must be posted at the operating station and in a conspicuous location in each crew accommodation space.

§ 185.516 Lifejacket placards.

(a) Placards containing instructions for the donning and use of the lifejackets aboard the vessel must be posted in conspicuous places which are regularly accessible and visible to the crew and passengers.

(b) If the cognizant OCMI determines that there is no suitable mounting surface aboard the vessel, the lifejacket placards need not be posted but must be carried aboard the vessel and be available to the crew and passengers for familiarization.

§ 185.518 Inflatable survival craft placards.

(a) Every vessel equipped with an inflatable survival craft must have posted in conspicuous places which are regularly accessible and visible to the crew and passengers, and by each inflatable survival craft, approved placards or other cards containing instructions for launching and inflating inflatable survival craft for the information of persons on board. The number and location of such placards for a particular vessel must be acceptable to the cognizant OCMI.

(b) Under the requirement in § 160.051–6(c)(1) of this chapter, the manufacturer of approved inflatable liferafts is required to provide approved placards containing such instructions with each liferaft. Similar placards must be used for other inflatable survival craft.

§ 185.520 Abandon ship and man overboard drills and training.

(a) The master shall conduct sufficient drills and give sufficient instructions to make sure that all crew members are familiar with their duties during emergencies which necessitate abandoning ship or the recovery of persons who have fallen overboard.

(b) Each abandon ship drill must include:

(1) Summoning the crew to report to assigned stations and prepare for assigned duties;

(2) Summoning passengers on a vessel on an overnight voyage to muster stations or embarkation stations and ensuring that they are made aware of how the order to abandon ship will be given;

(3) Checking that passengers and crew are suitably dressed;

(4) Checking that lifejackets are correctly donned;

(5) Operation of any davits used for launching liferafts; and

(6) Instruction on the automatic and manual deployment of survival craft.

(c) Each abandon ship drill must, as far as practicable, be conducted as if there were an actual emergency.

(d) Each rescue boat required in accordance with § 180.210 of this subchapter must be launched with its assigned crew aboard and maneuvered in the water as if during an actual man overboard situation:

(1) Once each month, if reasonable and practicable; but

(2) At least once within a 3 month period before the vessel gets underway with passengers.

(e) Onboard training in the use of davit launched liferafts must take place at intervals of not more than 4 months on a vessel with a davit launched liferaft. Whenever practicable, this must include the inflation and lowering of a liferaft. If a special liferaft intended for training purposes only is used, and is not part of the vessel's lifesaving equipment, the special liferaft must be conspicuously marked.

§ 185.524 Fire fighting drills and training.

(a) The master shall conduct sufficient fire drills to make sure that each crew member is familiar with his or her duties in case of a fire.

(b) Each fire drill must include:

(1) Summoning passengers on a vessel on an overnight voyage to muster or embarkation stations;

(2) Summoning the crew to report to assigned stations and to prepare for and demonstrate assigned duties; and

(3) Instruction in the use of fire extinguishers and any other fire fighting equipment on board.

(c) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

§ 185.530 Responsibilities of licensed individuals.

Nothing in the emergency instructions or a station bill required by this subpart exempts any licensed individual from the exercise of good judgment in an emergency situation.

Subpart F—Markings Required

§ 185.602 Hull markings.

(a) This section applies to each vessel that fits into any one of the following categories:

(1) A vessel of more than 65 feet (19.8 meters) in length.

(2) A sailing vessel of more than 5 feet (19.8 meters) in length.

(3) A vessel authorized to carry more than 160 passengers.

(4) A vessel authorized to carry more than 12 passengers on an international voyage.

(5) A vessel with more than 1 deck above the bulkhead deck exlusive of a pilot house.

(b) Each vessel must be marked as required by part 67 of this chapter.

(c) Each vessel which complies with the stability requirements of §§ 170.170, 170.173, 171.050, 171.055, and 171.057 of this chapter, in accordance with § 178.310 of this subchapter, must:

(1) Have permanent draft marks at each end of the vessel; or

(2) Have permanent loading marks placed on each side of the vessel forward, amidships, and aft to indicate the maximum allowable draft and trim.

(d) A loading mark required by paragraph (c)(2) of this section must be a horizontal line of at least 8 inches in length and 1 inch in height, with its upper edge passing through the point of maximum draft. The loading mark must be painted in a contrasting color to the sideshell paint.

(e) On a vessel which has a load line, the amidships marks required by paragraph (c)(2) of this section will be those required by the International Load Line Convention.

(f) In cases where draft marks are obscured due to operational constaints or by protrusions, the vessel must be fitted with a reliable draft indicating system from which the bow and stern drafts can be determined.

(g) On a vessel on which the number of passengers permitted on upper decks is limited by stability criteria, as indicated by the vessel's stability letter, the maximum number of passengers allowed on an upper deck must be indicated by a durable marking of at

least 1 inch numbers and letters at the entranceway to each such deck.

§ 185.604 Lifesaving equipment markings.

(a) The name of a vessel must be marked or painted in clearly legible letters and numbers at least 3 inches high:

(1) On each side of the bow of each rescue boat; and

(2) On each life float and buoyant apparatus.

(b) Each lifejacket, immersion suit, and ring life buoy must be marked in clearly legible block capital letters with the vessel's name. The marking is not required on a lifejacket carried to meet a temporary need for additional lifejackets, if the lifejacket has the name of another vessel marked on it. For an immersion suit, the name of the person to whom the immersion suit is assigned is an acceptable alternative to the name of the vessel.

(c) The name of the vessel must be marked or painted in clearly legible letters on each Emergency Position Indicating Radio Beacon (EPIRB), except on an EPIRB in an inflatable liferaft.

(d) The number of persons capacity must be marked or painted in clearly legible letters on each side of the bow of each rescue boat in letters and numbers at least 1.5 inches high.

(e) The number of persons capacity must be marked or painted in clearly legible letters on each life float and buoyant apparatus in letters and numbers at least 1.5 inches high. This number must:

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for as shown on its nameplate.

(f) The number of persons each inflatable liferaft is permitted to accommodate must be marked or painted in clearly legible letters and numbers at least 1.5 inches high on the inflatable liferaft container.

(g) The number and identification of the items stowed inside, and their sizes, must be marked in clearly legible letters and numbers on each container for lifejackets and immersion suits. Identification of the items may be in words, or the appropriate symbols in IMO Resolution A.603(15). Letters and numbers must be at least 2 inches high. Symbols must be at least 100 mm (4 inches) square.

(h) The name of the vessel must be marked or painted in clearly legible letters on each oar and paddle.

(i) Each lifejacket must be marked with Type I retroreflective material approved under part 164, subpart 164.018 of this chapter. The arrangement of the retroreflective material applied after [effective date of the final rule] must be as specified by IMO Resolution A.658(16).

(j) Each rescue boat and ring life buoy must be marked with Type II retroreflective material approved under part 164, subpart 164.018 of this chapter. The arrangement of the retroreflective material applied after [insert effective date of the final rule] must be as specified by IMO Resolution A.658(16).

§ 185.606 Escape hatches and emergency exits.

All escape hatches and other emergency exits used as means of escape must be marked on both sides in clearly legible letters at least 2 inches high: "EMERGENCY EXIT, KEEP CLEAR", unless such markings are deemed unnecessary by the cognizant OCMI.

§ 185.608 Fuel shutoff valves.

Remote fuel shutoff stations must be marked in clearly legible letters at least 1 inch high indicating purpose of the valve and direction of operation.

§ 185.610 Watertight doors and watertight hatches.

Watertight doors and watertight hatches must be marked on both sides in clearly legible letters at least 1 inch high: "WATERTIGHT DOOR—KEEP CLOSED" or "WATERTIGHT HATCH—KEEP CLOSED", unless such markings are deemed unnecessary by the cognizant OCMI.

§ 185.612 Fire protection equipment.

(a) Complete but simple instructions for the operation of a fixed gas fire extinguishing system must be located in a conspicuous place at or near each pull box and stop valve control and in the space where the extinguishing agent cylinders are stored. If the storage cylinders are separate from the protected space, the instructions must also include a schematic diagram of the system and instructions detailing alternate methods of releasing the extinguishing agent should the local manual release or stop valve controls fail to operate. Each control valve to a distribution line must be marked to indicate the space served.

(b) An alarm for a fixed gas fire extinguishing system must be clearly and conspicuously marked "WHEN ALARM SOUNDS—VACATE AT ONCE. CARBON DIOXIDE (HALON) BEING RELEASED".

(c) Each distribution line valve of a fixed gas fire extinguishing system and the fire main, must be plainly, conspicuously, and permanently marked indicating the space served.

(d) An alarm for an automatic sprinkler system must be conspicuously marked in clearly legible letters "SPRINKLER ALARM".

(e) An alarm bell for a smoke detecting system must be conspicuously marked in clearly legible letters "SMOKE DETECTION ALARM".

(f) A control cabinet or space containing valves, manifolds, or controls for any fixed gas fire extinguishing system must be conspicuously marked in clearly legible letters "CARBON DIOXIDE (HALON) FIRE EXTINGUISHING APPARATUS", or as otherwise required by the cognizant OCMI.

Subpart G—Operational Readiness, Maintenance, and Inspection of Lifesaving Equipment

§ 185.700 Operational readiness.

(a) Each launching appliance and each survival craft and rescue boat on a vessel must be in good working order and ready for immediate use before the vessel leaves port and at all times when the vessel is underway.

(b) Each deck where survival craft or rescue boats are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the survival craft or rescue boat.

§ 185.702 Maintenance.

(a) The manufacturer's instructions for onboard maintenance of survival craft, rescue boats, and launching appliances, manufactured on or after [*effective date of the final rule*], must be onboard a vessel of more than 65 feet in length and readily available for a vessel of not more than 65 feet in length. The instructions must also be readily available at each inspection for certification and reinspection. The instructions must include the following:

(1) Checklists for use when carrying out the inspections required under this subpart;

(2) Maintenance and repair instructions;

(3) A schedule of periodic maintenance;

(4) A diagram of lubrication points with the recommended lubricants;

(5) A list of replaceable parts;

(6) A list of sources of spare parts; and

(7) A log for records of inspections and maintenance.

(b) The owner or managing operator shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.

(c) The cognizant OCMI may accept, instead of the instructions required under paragraph (a) of this section, a shipboard planned maintenance program that includes the items listed in that paragraph.

§ 185.704 Maintenance of falls.

(a) Each fall used in a launching appliance on a vessel must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is earlier.

(c) Each fall must have a corrosion resistant tag with the following permanently marked on it:

(1) The date the new fall was installed; and

(2) If the fall has been turned end for end, the date it was turned.

§ 185.720 Weekly maintenance and inspections.

The following tests and inspections must be carried out weekly on a vessel:

(a) Each survival craft, rescue boat, and launching appliance must be visually inspected to ensure its readiness for use;

(b) Each rescue boat engine must be run ahead and astern for not less than 3 minutes, unless the ambient temperature is below the minimum temperature required for starting the engine; and

(c) Each battery for rescue boat engine starting must be brought up to full charge at least once each week if:

(1) The battery is of a type that requires recharging; and

(2) The battery is not connected to a device that keeps it continuously charged.

§ 185.722 Monthly inspections.

Each survival craft, rescue boat, and launching appliance on a vessel must be inspected monthly, using the applicable checklist when required under § 185.702, to make sure it is complete and in good order.

§ 185.724 Quarterly inspections.

(a) Each winch control apparatus of a launching appliance on a vessel, including motor controllers, emergency switches, master switches, and limit switches, must be examined once in each 3 months.

(b) The examination required by paragraph (a) of this section must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.

§ 185.726 Annual inspections.

(a) Each rescue boat must be stripped, cleaned, and thoroughly inspected and repaired at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.

(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired once each year.

(c) Each item of lifesaving equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(d) Each battery used in an item of lifesaving equipment, except inflatable survival craft equipment, must be replaced during the annual inspection if the expiration date of the battery has passed. The expiration date of the battery may be marked on the battery or the owner or managing operator may have a record of the expiration date from the manufacturer of a battery marked with a serial number.

(e) Except for a storage battery used in a rescue boat, each battery without an expiration date indicated on it or for which the owner or managing operator does not have a record of the expiration date, used in an item of lifesaving equipment, must be replaced during the annual inspection.

(f) The requirements in this section do not relieve the master of the requirement under § 185.700 to keep the equipment ready for immediate use.

§ 185.728 Testing and servicing of Emergency Position Indicating Radiobeacons (EPIRBs).

The master of the vessel shall ensure that:

(a) Each EPIRB, other than an EPIRB in an inflatable liferaft, must be tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and,

(b) The EPIRB's battery is replaced after it is used, or before the date required by FCC regulations in 47 CFR part 80, whichever comes sooner.

§ 185.730 Servicing of inflatable liferafts, inflatable buoyant apparatus, inflatable lifejackets and inflated rescue boats.

(a) Each inflatable liferaft, inflatable buoyant apparatus, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced:

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

(b) Each inflatable liferaft and inflatable buoyant apparatus must be serviced:

(1) Whenever the container of the raft is damaged, or the straps or seal are broken; and

(2) In accordance with the servicing procedure under part 160, subpart 160.051 of this chapter.

(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under part 160, subpart 160.176 of this chapter.

(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under part 160, subpart 160.077 of this chapter.

(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant, except for emergency repairs carried out on board the vessel.

§ 185.740 Periodic servicing of hydrostatic release units.

(a) Each hydrostatic release unit, other than a disposable unit, must be serviced:

(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) In accordance with the repair and testing procedures under part 160, subpart 160.062 of this chapter.

(b) Each disposable hydrostatic release unit must be marked with an expiration date of two years after the date on which the unit is installed.

Subpart H—Penalties

§ 185.900 Penalty for violations.

Violation of the provisions of this subchapter will subject the violator to the applicable penalty provisions of Subtitle II of Title 46, United States Code.

§ 185.910 Suspension and revocation.

An individual holding a license, certificate of registry, or merchant mariner's document who commits an act of misconduct, negligence, or incompetence, or who violates or fails to comply with this subchapter or any other law or regulation intending to promote marine safety, is subject to proceedings under the provisions of 46 U.S.C. 7703 and part 5 of this chapter with respect to suspension or revocation of a license, certificate, or document.

Signed: December 21, 1993.

J. W. Kime,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 94–19 Filed 1–12–94; 8:45 am]

BILLING CODE 4910-14-P

federal register

Thursday
January 13, 1994

Part III

Office of Personnel Management

The President's Pay Agent; Notice

OFFICE OF PERSONNEL MANAGEMENT

The President's Pay Agent

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management, on behalf of the President's Pay Agent, is providing herein the tables showing locality rates of pay effective on the first day of the first pay period beginning on or after January 1, 1994, for General Schedule employees in each of the locality pay areas that the Pay Agent established. These salary tables are based on the 1993 General Schedule and reflect the locality pay percentages authorized by the President in his December 1, 1993, Memorandum for the President's Pay Agent (58 FR 64097, December 3, 1993).

Also included are tables showing 1994 pay rates for law enforcement officers, employees receiving interim geographic adjustments, the Senior Executive Service, employees in senior-level and scientific or professional positions, administrative law judges, members of boards of contract appeals, and individuals covered by the Executive Schedule. The 1993 General Schedule is included because it continues to apply to employees in Alaska, Hawaii, and all areas outside the United States and must also be used for certain pay administration purposes. Finally, the exact definition of each locality pay area also is included.

For the President's Pay Agent:

Lorraine A. Green,

Deputy Director.

1994 Salary Tables—General Schedule and Locality Rates of Pay

January 1994

The rates of pay for the General Schedule were authorized under Executive order 12826 of December 30, 1992, and became effective in January 1993. Public Law 103–123, October 28, 1993, canceled the general pay adjustment for the General Schedule for 1994.

Locality-based comparability payments are authorized under 5 U.S.C. 5304. The attached 1994 salary tables show the locality rates of pay for General Schedule employees in each of the 28 locality pay areas. The locality rates of pay are computed based on the annual rates shown on the General Schedule (salary table 94–GS) and reflect the locality pay percentages authorized by the President on December 1, 1993. The locality rates of pay are considered basic pay for retirement, life insurance, premium pay, and severance pay purposes and for advances in pay. They are also used to compute workers' compensation payments and lump-sum payments for accrued and accumulated annual leave. They are *NOT* considered basic pay for any other purpose.

SALARY TABLE NO. 94–GS—1994 GENERAL SCHEDULE

[Effective January 1993]

	Annual rates by grade and step										Within grade increase amounts
	1	2	3	4	5	6	7	8	9	10	
GS–1	$11,903	$12,300	$12,695	$13,090	$13,487	$13,720	$14,109	$14,503	$14,521	$14,891	VARIES
GS–2	13,382	13,701	14,145	14,521	14,683	15,115	15,547	15,979	16,411	16,843	VARIES
GS–3	14,603	15,090	15,577	16,064	16,551	17,038	17,525	18,012	18,499	18,986	$487
GS–4	16,393	16,939	17,485	18,031	18,577	19,123	19,669	20,215	20,761	21,307	546
GS–5	18,340	18,951	19,562	20,173	20,784	21,395	22,006	22,617	23,228	23,839	611
GS–6	20,443	21,124	21,805	22,486	23,167	23,848	24,529	25,210	25,891	26,572	681
GS–7	22,717	23,474	24,231	24,988	25,745	26,502	27,259	28,016	28,773	29,530	757
GS–8	25,159	25,998	26,837	27,676	28,515	29,354	30,193	31,032	31,871	32,710	839
GS–9	27,789	28,715	29,641	30,567	31,493	32,419	33,345	34,271	35,197	36,123	926
GS–10	30,603	31,623	32,643	33,663	34,683	35,703	36,723	37,743	38,763	39,783	1,020
GS–11	33,623	34,744	35,865	36,986	38,107	39,228	40,349	41,470	42,591	43,712	1,121
GS–12	40,298	41,641	42,984	44,327	45,670	47,013	48,356	49,699	51,042	52,385	1,343
GS–13	47,920	49,517	51,114	52,711	54,308	55,905	57,502	59,099	60,696	62,293	1,597
GS–14	56,627	58,515	60,403	62,291	64,179	66,067	67,955	69,843	71,731	73,619	1,888
GS–15	66,609	68,829	71,049	73,269	75,489	77,709	79,929	82,149	84,369	86,589	2,220

SALARY TABLE NO. 94–ATL—INCORPORATING THE 3.86 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ATLANTA, GA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,362	$12,775	$13,185	$13,595	$14,008	$14,250	$14,654	$15,063	$15,082	$15,466
GS–2	13,899	14,230	14,691	15,082	15,250	15,698	16,147	16,596	17,044	17,493
GS–3	15,167	15,672	16,178	16,684	17,190	17,696	18,201	18,707	19,213	19,719
GS–4	17,026	17,593	18,160	18,727	19,294	19,861	20,428	20,995	21,562	22,129
GS–5	19,048	19,683	20,317	20,952	21,586	22,221	22,855	23,490	24,125	24,759
GS–6	21,232	21,939	22,647	23,354	24,061	24,769	25,476	26,183	26,890	27,598
GS–7	23,594	24,380	25,166	25,953	26,739	27,525	28,311	29,097	29,884	30,670
GS–8	26,130	27,002	27,873	28,744	29,616	30,487	31,358	32,230	33,101	33,973
GS–9	28,862	29,823	30,785	31,747	32,709	33,670	34,632	35,594	36,556	37,517
GS–10	31,784	32,844	33,903	34,962	36,022	37,081	38,141	39,200	40,259	41,319

SALARY TABLE NO. 94–ATL—INCORPORATING THE 3.86 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ATLANTA, GA—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–11	34,921	36,085	37,249	38,414	39,578	40,742	41,906	43,071	44,235	45,399
GS–12	41,854	43,248	44,643	46,038	47,433	48,828	50,223	51,617	53,012	54,407
GS–13	49,770	51,428	53,087	54,746	56,404	58,063	59,722	61,380	63,039	64,698
GS–14	58,813	60,774	62,735	64,695	66,656	68,617	70,578	72,539	74,500	76,461
GS–15	69,180	71,486	73,791	76,097	78,403	80,709	83,014	85,320	87,626	89,931

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–BOS—INCORPORATING THE 5.47 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF BOSTON-WORCESTER-LAWRENCE, MA–NH–ME–CT

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,554	$12,973	$13,389	$13,806	$14,225	$14,470	$14,881	$15,296	$15,315	$15,706
GS–2	14,114	14,450	14,919	15,315	15,486	15,942	16,397	16,853	17,309	17,764
GS–3	15,402	15,915	16,429	16,943	17,456	17,970	18,484	18,997	19,511	20,025
GS–4	17,290	17,866	18,441	19,017	19,593	20,169	20,745	21,321	21,897	22,472
GS–5	19,343	19,988	20,632	21,276	21,921	22,565	23,210	23,854	24,499	25,143
GS–6	21,561	22,279	22,998	23,716	24,434	25,152	25,871	26,589	27,307	28,025
GS–7	23,960	24,758	25,556	26,355	27,153	27,952	28,750	29,548	30,347	31,145
GS–8	26,535	27,420	28,305	29,190	30,075	30,960	31,845	32,729	33,614	34,499
GS–9	29,309	30,286	31,262	32,239	33,216	34,192	35,169	36,146	37,122	38,099
GS–10	32,277	33,353	34,429	35,504	36,580	37,656	38,732	39,808	40,883	41,959
GS–11	35,462	36,644	37,827	39,009	40,191	41,374	42,556	43,738	44,921	46,103
GS–12	42,502	43,919	45,335	46,752	48,168	49,585	51,001	52,418	53,834	55,250
GS–13	50,541	52,226	53,910	55,594	57,279	58,963	60,647	62,332	64,016	65,700
GS–14	59,724	61,716	63,707	65,698	67,690	69,681	71,672	73,663	75,655	77,646
GS–15	70,253	72,594	74,935	77,277	79,618	81,960	84,301	86,643	88,984	91,325

Note: Law enforcement officers are entitled to higher rates of pay under salary table 94–BOS (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–CHI—INCORPORATING THE 5.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CHICAGO-GARY-KENOSHA, IL–IN–WI

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,539	$12,957	$13,373	$13,789	$14,207	$4,453	$14,862	$15,277	$15,296	$15,686
GS–2	14,097	14,433	14,900	15,296	15,467	15,922	16,377	16,832	17,287	17,742
GS–3	15,383	15,896	16,409	16,922	17,435	17,948	18,461	18,974	19,487	20,000
GS–4	17,268	17,844	18,419	18,994	19,569	20,144	20,719	21,294	21,870	22,445
GS–5	19,319	19,963	20,607	21,250	21,894	22,537	23,181	23,825	24,468	25,112
GS–6	21,535	22,252	22,969	23,687	24,404	25,121	25,839	26,556	27,274	27,991
GS–7	23,930	24,728	25,525	26,322	27,120	27,917	28,715	29,512	30,309	31,107
GS–8	26,502	27,386	28,270	29,154	30,038	30,922	31,805	32,689	33,573	34,457
GS–9	29,273	30,248	31,224	32,199	33,175	34,150	35,126	36,101	37,077	38,052
GS–10	32,237	33,312	34,386	35,461	36,535	37,610	38,684	39,758	40,833	41,907
GS–11	35,418	36,599	37,780	38,961	40,142	41,323	42,504	43,684	44,865	46,046
GS–12	42,450	43,865	45,279	46,694	48,109	49,523	50,938	52,353	53,768	55,182
GS–13	50,479	52,161	53,843	55,526	57,208	58,890	60,573	62,255	63,937	65,619
GS–14	59,651	61,640	63,629	65,617	67,606	69,595	71,584	73,573	75,561	77,550
GS–15	70,166	72,504	74,843	77,182	79,520	81,859	84,197	86,536	88,874	91,213

Note: Law enforcement officers receiving statutory special salary rates are entitled to higher rates of pay under salary table 94–CHI (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–CIN—INCORPORATING THE 4.22 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CINCINNATI-HAMILTON, OH–KY–IN

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,405	$12,819	$13,231	$13,642	$14,056	$14,299	$14,704	$15,115	$15,134	$15,519
GS–2	13,947	14,279	14,742	15,134	15,303	15,753	16,203	16,653	17,104	17,554
GS–3	15,219	15,727	16,234	16,742	17,249	17,757	18,265	18,772	19,280	19,787
GS–4	17,085	17,654	18,223	18,792	19,361	19,930	20,499	21,068	21,637	22,206
GS–5	19,114	19,751	20,388	21,024	21,661	22,298	22,935	23,571	24,208	24,845
GS–6	21,306	22,015	22,725	23,435	24,145	24,854	25,564	26,274	26,984	27,693
GS–7	23,676	24,465	25,254	26,042	26,831	27,620	28,409	29,198	29,987	30,776
GS–8	26,221	27,095	27,970	28,844	29,718	30,593	31,467	32,342	33,216	34,090
GS–9	28,962	29,927	30,892	31,857	32,822	33,787	34,752	35,717	36,682	37,647
GS–10	31,894	32,957	34,021	35,084	36,147	37,210	38,273	39,336	40,399	41,462
GS–11	35,042	36,210	37,379	38,547	39,715	40,883	42,052	43,220	44,388	45,557
GS–12	41,999	43,398	44,798	46,198	47,597	48,997	50,397	51,796	53,196	54,596
GS–13	49,942	51,607	53,271	54,935	56,600	58,264	59,929	61,593	63,257	64,922
GS–14	59,017	60,984	62,952	64,920	66,887	68,855	70,823	72,790	74,758	76,726
GS–15	69,420	71,734	74,047	76,361	78,675	80,988	83,302	85,616	87,929	90,243

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–CLE—INCORPORATING THE 3.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CLEVELAND-AKRON, OH

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,301	$12,711	$13,119	$13,527	$13,937	$14,178	$14,580	$14,987	$15,006	$15,388
GS–2	13,829	14,159	14,617	15,006	15,173	15,620	16,066	16,513	16,959	17,406
GS–3	15,091	15,594	16,097	16,601	17,104	17,607	18,110	18,614	19,117	19,620
GS–4	16,941	17,505	18,069	18,633	19,197	19,762	20,326	20,890	21,454	22,019
GS–5	18,953	19,584	20,215	20,847	21,478	22,110	22,741	23,372	24,004	24,635
GS–6	21,126	21,830	22,533	23,237	23,941	24,645	25,348	26,052	26,756	27,460
GS–7	23,476	24,258	25,040	25,823	26,605	27,387	28,169	28,952	29,734	30,516
GS–8	25,999	26,866	27,733	28,600	29,467	30,334	31,201	32,068	32,935	33,803
GS–9	28,717	29,674	30,631	31,588	32,545	33,502	34,459	35,416	36,373	37,330
GS–10	31,625	32,679	33,733	34,787	35,841	36,895	37,950	39,004	40,058	41,112
GS–11	34,746	35,904	37,063	38,221	39,380	40,538	41,697	42,855	44,014	45,172
GS–12	41,644	43,032	44,420	45,808	47,195	48,583	49,971	51,359	52,747	54,135
GS–13	49,521	51,171	52,821	54,472	56,122	57,772	59,423	61,073	62,723	64,374
GS–14	58,518	60,469	62,420	64,372	66,323	68,274	70,225	72,176	74,127	76,078
GS–15	68,834	71,128	73,422	75,716	78,010	80,304	82,599	84,893	87,187	89,481

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–DFW—INCORPORATING THE 4.21 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DALLAS-FORT WORTH, TX

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,404	$12,818	$13,229	$13,641	$14,055	$14,298	$14,703	$15,114	$15,132	$15,518
GS–2	13,945	14,278	14,741	15,132	15,301	15,751	16,202	16,652	17,102	17,552
GS–3	15,218	15,725	16,233	16,740	17,248	17,755	18,263	18,770	19,278	19,785
GS–4	17,083	17,652	18,221	18,790	19,359	19,928	20,497	21,066	21,635	22,204
GS–5	19,112	19,749	20,386	21,022	21,659	22,296	22,932	23,569	24,206	24,843
GS–6	21,304	22,013	22,723	23,433	24,142	24,852	25,562	26,271	26,981	27,691
GS–7	23,673	24,462	25,251	26,040	26,829	27,618	28,407	29,195	29,984	30,773
GS–8	26,218	27,093	27,967	28,841	29,715	30,590	31,464	32,338	33,213	34,087
GS–9	28,959	29,924	30,889	31,854	32,819	33,784	34,749	35,714	36,679	37,644
GS–10	31,891	32,954	34,017	35,080	36,143	37,206	38,269	39,332	40,395	41,458
GS–11	35,039	36,207	37,375	38,543	39,711	40,879	42,048	43,216	44,384	45,552
GS–12	41,995	43,394	44,794	46,193	47,593	48,992	50,392	51,791	53,191	54,590
GS–13	49,937	51,602	53,266	54,930	56,594	58,259	59,923	61,587	63,251	64,916
GS–14	59,011	60,978	62,946	64,913	66,881	68,848	70,816	72,783	74,751	76,718

SALARY TABLE NO. 94–DFW—INCORPORATING THE 4.21 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DALLAS-FORT WORTH, TX—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–15	69,413	71,727	74,040	76,354	78,667	80,981	83,294	85,607	87,921	90,234

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–DAY—INCORPORATING THE 3.77 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DAYTON-SPRINGFIELD, OH

[Effective January 1994]

	Annual Rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,352	$12,764	$13,174	$13,583	$13,995	$14,237	$14,641	$15,050	$15,068	$15,452
GS–2	13,887	14,218	14,678	15,068	15,237	15,685	16,133	16,581	17,030	17,478
GS–3	15,154	15,659	16,164	16,670	17,175	17,680	18,186	18,691	19,196	19,702
GS–4	17,011	17,578	18,144	18,711	19,277	19,844	20,411	20,977	21,544	22,110
GS–5	19,031	19,665	20,299	20,934	21,568	22,202	22,836	23,470	24,104	24,738
GS–6	21,214	21,920	22,627	23,334	24,040	24,747	25,454	26,160	26,867	27,574
GS–7	23,573	24,359	25,145	25,930	26,716	27,501	28,287	29,072	29,858	30,643
GS–8	26,107	26,978	27,849	28,719	29,590	30,461	31,331	32,202	33,073	33,943
GS–9	28,837	29,798	30,758	31,719	32,680	33,641	34,602	35,563	36,524	37,485
GS–10	31,757	32,815	33,874	34,932	35,991	37,049	38,107	39,166	40,224	41,283
GS–11	34,891	36,054	37,217	38,380	39,544	40,707	41,870	43,033	44,197	45,360
GS–12	41,817	43,211	44,604	45,998	47,392	48,785	50,179	51,573	52,966	54,360
GS–13	49,727	51,384	53,041	54,698	56,355	58,013	59,670	61,327	62,984	64,641
GS–14	58,762	60,721	62,680	64,639	66,599	68,558	70,517	72,476	74,435	76,394
GS–15	69,120	71,424	73,728	76,031	78,335	80,639	82,942	85,246	87,550	89,853

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–DEN—INCORPORATING THE 4.54 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DENVER-BOULDER-GREELEY, CO

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,443	$12,858	$13,271	$13,684	$14,099	$14,343	$14,750	$15,161	$15,180	$15,567
GS–2	13,990	14,323	14,787	15,180	15,350	15,801	16,253	16,704	17,156	17,608
GS–3	15,266	15,775	16,284	16,793	17,302	17,812	18,321	18,830	19,339	19,848
GS–4	17,137	17,708	18,279	18,850	19,420	19,991	20,562	21,133	21,704	22,274
GS–5	19,173	19,811	20,450	21,089	21,728	22,366	23,005	23,644	24,283	24,921
GS–6	21,371	22,083	22,795	23,507	24,219	24,931	25,643	26,355	27,066	27,778
GS–7	23,748	24,540	25,331	26,122	26,914	27,705	28,497	29,288	30,079	30,871
GS–8	26,301	27,178	28,055	28,932	29,810	30,687	31,564	32,441	33,318	34,195
GS–9	29,051	30,019	30,987	31,955	32,923	33,891	34,859	35,827	36,795	37,763
GS–10	31,992	33,059	34,125	35,191	36,258	37,324	38,390	39,457	40,523	41,589
GS–11	35,149	36,321	37,493	38,665	39,837	41,009	42,181	43,353	44,525	45,697
GS–12	42,128	43,532	44,935	46,339	47,743	49,147	50,551	51,955	53,359	54,763
GS–13	50,096	51,765	53,435	55,104	56,774	58,443	60,113	61,782	63,452	65,121
GS–14	59,198	61,172	63,145	65,119	67,093	69,066	71,040	73,014	74,988	76,961
GS–15	69,633	71,954	74,275	76,595	78,916	81,237	83,558	85,879	88,199	90,520

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–DET—INCORPORATING THE 4.84 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DETROIT-ANN ARBOR-FLINT, MI

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,479	$12,895	$13,309	$13,724	$14,140	$14,384	$14,792	$15,205	$15,224	$15,612
GS–2	14,030	14,364	14,830	15,224	15,394	15,847	16,299	16,752	17,205	17,658
GS–3	15,310	15,820	16,331	16,841	17,352	17,863	18,373	18,884	19,394	19,905

SALARY TABLE NO. 94–DET—INCORPORATING THE 4.84 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DETROIT-ANN ARBOR-FLINT, MI—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–4	17,186	17,759	18,331	18,904	19,476	20,049	20,621	21,193	21,766	22,338
GS–5	19,228	19,868	20,509	21,149	21,790	22,431	23,071	23,712	24,352	24,993
GS–6	21,432	22,146	22,860	23,574	24,288	25,002	25,716	26,430	27,144	27,858
GS–7	23,817	24,610	25,404	26,197	26,991	27,785	28,578	29,372	30,166	30,959
GS–8	26,377	27,256	28,136	29,016	29,895	30,775	31,654	32,534	33,414	34,293
GS–9	29,134	30,105	31,076	32,046	33,017	33,988	34,959	35,930	36,901	37,871
GS–10	32,084	33,154	34,223	35,292	36,362	37,431	38,500	39,570	40,639	41,708
GS–11	35,250	36,426	37,601	38,776	39,951	41,127	42,302	43,477	43,652	45,828
GS–12	42,248	43,656	45,064	46,472	47,880	49,288	50,696	52,104	53,512	54,920
GS–13	50,239	51,914	53,588	55,262	56,937	58,611	60,285	61,959	63,634	65,308
GS–14	59,368	61,347	63,327	65,306	67,285	69,265	71,244	73,223	75,203	77,182
GS–15	69,833	72,160	74,488	76,815	79,143	81,470	83,798	86,125	88,452	90,780

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–HOU—INCORPORATING THE 6.52 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF HOUSTON-GALVESTON-BRAZORIA, TX

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,679	$13,102	$13,523	$13,943	$14,366	$14,615	$15,029	$15,449	$15,468	$15,862
GS–2	14,255	14,594	15,067	15,468	15,640	16,100	16,561	17,021	17,481	17,941
GS–3	15,555	16,074	16,593	17,111	17,630	18,149	18,668	19,186	19,705	20,224
GS–4	17,462	18,043	18,625	19,207	19,788	20,370	20,951	21,533	22,115	22,696
GS–5	19,536	20,187	20,837	21,488	22,139	22,790	23,441	24,092	24,742	25,393
GS–6	21,776	22,501	23,227	23,952	24,677	25,403	26,128	26,854	27,579	28,304
GS–7	24,198	25,005	25,811	26,617	27,424	28,230	29,036	29,843	30,649	31,455
GS–8	26,799	27,693	28,587	29,480	30,374	31,268	32,162	33,055	33,949	34,843
GS–9	29,601	30,587	31,574	32,560	33,546	34,533	35,519	36,505	37,492	38,478
GS–10	32,598	33,685	34,711	35,858	36,944	38,031	39,117	40,204	41,290	42,377
GS–11	35,815	37,009	38,203	39,397	40,592	41,786	42,980	44,174	45,368	46,562
GS–12	42,925	44,356	45,787	47,217	48,648	50,078	51,509	52,939	54,370	55,801
GS–13	51,044	52,746	54,447	56,148	57,849	59,550	61,251	62,952	64,653	66,355
GS–14	60,319	62,330	64,341	66,352	68,363	70,375	72,386	74,397	76,408	78,419
GS–15	70,952	73,317	75,681	78,046	80,411	82,776	85,140	87,505	89,870	92,235

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–HNT—INCORPORATING THE 4.10 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF HUNTSVILLE, AL

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,391	$12,804	$13,215	$13,627	$14,040	$14,283	$14,687	$15,098	$15,116	$15,502
GS–2	13,931	14,263	14,725	15,116	15,285	15,735	16,184	16,634	17,084	17,534
GS–3	15,202	15,709	16,216	16,723	17,230	17,737	18,244	18,750	19,257	19,764
GS–4	17,065	17,633	18,202	18,770	19,339	19,907	20,475	21,044	21,612	22,181
GS–5	19,092	19,728	20,364	21,000	21,636	22,272	22,908	23,544	24,180	24,816
GS–6	21,281	21,990	22,699	23,408	24,117	24,826	25,535	26,244	26,953	27,661
GS–7	23,648	24,436	25,224	26,013	26,801	27,589	28,377	29,165	29,953	30,741
GS–8	26,191	27,064	27,937	28,811	29,684	30,558	31,431	32,304	33,178	34,051
GS–9	28,928	29,892	30,856	31,820	32,784	33,748	34,712	35,676	36,640	37,604
GS–10	31,858	32,920	33,981	35,043	36,105	37,167	38,229	39,290	40,352	41,414
GS–11	35,002	36,169	37,335	38,502	39,669	40,836	42,003	43,170	44,337	45,504
GS–12	41,950	43,348	44,746	46,144	47,542	48,941	50,339	51,737	53,135	54,533
GS–13	49,885	51,547	53,210	54,872	56,535	58,197	59,860	61,522	63,185	64,847
GS–14	58,949	60,914	62,880	64,845	66,810	68,776	70,741	72,707	74,672	76,637
GS–15	69,340	71,651	73,962	76,273	78,584	80,895	83,206	85,517	87,828	90,139

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94—IND—INCORPORATING THE 3.68 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF INDIANAPOLIS, IN

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,341	$12,753	$13,162	$13,572	$13,983	$14,225	$14,628	$15,037	$15,055	$15,439
GS–2	13,874	14,205	14,666	15,055	15,223	15,671	16,119	16,567	17,015	17,463
GS–3	15,140	15,645	16,150	16,655	17,160	17,665	18,170	18,675	19,180	19,685
GS–4	16,996	17,562	18,128	18,695	19,261	19,827	20,393	20,959	21,525	22,091
GS–5	19,015	19,648	20,282	20,915	21,549	22,182	22,816	23,449	24,083	24,716
GS–6	21,195	21,901	22,607	23,313	24,020	24,726	25,432	26,138	26,844	27,550
GS–7	23,553	24,338	25,123	25,908	26,692	27,477	28,262	29,047	29,832	30,617
GS–8	26,085	26,995	27,825	28,694	29,564	30,434	31,304	32,174	33,044	33,914
GS–9	28,812	29,772	30,732	31,692	32,652	33,612	34,572	35,532	36,492	37,452
GS–10	31,729	32,787	33,844	34,902	35,959	37,017	38,074	39,132	40,189	41,247
GS–11	34,860	36,023	37,185	38,347	39,509	40,672	41,834	42,996	44,158	45,321
GS–12	41,781	43,173	44,566	45,958	47,351	48,743	50,136	51,528	52,920	54,313
GS–13	49,683	51,339	52,995	54,651	56,307	57,962	59,618	61,274	62,930	64,585
GS–14	58,711	60,668	62,626	64,583	66,541	68,498	70,456	72,413	74,371	76,328
GS–15	69,060	71,362	73,664	75,965	78,267	80,569	82,870	85,172	87,474	89,775

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–KC—INCORPORATING THE 3.30 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF KANSAS CITY, MO–KS

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,296	$12,706	$13,114	$13,522	$13,932	$14,173	$14,575	$14,982	$15,000	$15,382
GS–2	13,824	14,153	14,612	15,000	15,168	15,614	16,060	16,506	16,953	17,399
GS–3	15,085	15,588	16,091	16,594	17,097	17,600	18,103	18,606	19,109	19,613
GS–4	16,934	17,498	18,062	18,626	19,190	19,754	20,318	20,882	21,446	22,010
GS–5	18,945	19,576	20,208	20,839	21,470	22,101	22,732	23,363	23,995	24,626
GS–6	21,118	21,821	22,525	23,228	23,932	24,635	25,338	26,042	26,745	27,449
GS–7	23,467	24,249	25,031	25,813	26,595	27,377	28,159	28,941	29,723	30,504
GS–8	25,989	26,856	27,723	28,589	29,456	30,323	31,189	32,056	32,923	33,789
GS–9	28,706	29,663	30,619	31,576	32,532	33,489	34,445	35,402	36,359	37,315
GS–10	31,613	32,667	33,720	34,774	35,828	36,881	37,935	38,989	40,042	41,096
GS–11	34,733	35,891	37,049	38,207	39,365	40,523	41,681	42,839	43,997	45,154
GS–12	41,628	43,015	44,402	45,790	47,177	48,564	49,952	51,339	52,726	54,114
GS–13	49,501	51,151	52,801	54,450	56,100	57,750	59,400	61,049	62,699	64,349
GS–14	58,496	60,446	62,396	64,347	66,297	68,247	70,198	72,148	74,098	76,048
GS–15	68,807	71,100	73,394	75,687	77,980	80,273	82,567	84,860	87,153	89,446

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–LA—INCORPORATING THE 5.69 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCAITY PAY AREA OF LOS ANGELES-RIVERSIDE-ORANGE COUNTY, CA, (INCLUDING SANTA BARBARA COUNTY AND ALL OF EDWARDS AIR FORCE BASE)

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,580	$13,000	$13,417	$13,835	$14,254	$14,501	$14,912	$15,328	$15,347	$15,738
GS–2	14,143	14,481	14,950	15,347	15,518	15,975	16,432	16,888	17,345	17,801
GS–3	15,434	15,949	16,463	16,978	17,493	18,007	18,522	19,037	19,552	20,066
GS–4	17,326	17,903	18,480	19,057	19,634	20,211	20,788	21,365	21,942	22,519
GS–5	19,384	20,029	20,675	21,321	21,967	22,612	23,258	23,904	24,550	25,195
GS–6	21,606	22,326	23,046	23,765	24,485	25,205	25,925	26,644	27,364	28,084
GS–7	24,010	24,810	25,610	26,410	27,210	28,010	28,810	29,610	30,410	31,210
GS–8	26,591	27,477	28,364	29,251	30,138	31,024	31,911	32,798	33,684	34,571
GS–9	29,370	30,349	31,328	32,306	33,285	34,264	35,242	36,221	37,200	38,178
GS–10	32,344	33,422	34,500	35,578	36,656	37,735	38,813	39,891	40,969	42,047
GS–11	35,536	36,721	37,906	39,091	40,275	41,460	42,645	43,830	45,014	46,199
GS–12	42,591	44,010	45,430	46,849	48,269	49,688	51,107	52,527	53,946	55,366
GS–13	50,647	52,335	54,022	55,710	57,398	59,086	60,774	62,462	64,150	65,837
GS–14	59,849	61,845	63,840	65,835	67,831	69,826	71,822	73,817	75,812	77,808

SALARY TABLE NO. 94–LA—INCORPORATING THE 5.69 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCAITY PAY AREA OF LOS ANGELES-RIVERSIDE-ORANGE COUNTY, CA, (INCLUDING SANTA BARBARA COUNTY AND ALL OF EDWARDS AIR FORCE BASE)—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–15	70,399	72,745	75,092	77,438	79,784	82,131	84,477	86,823	89,170	91,516

Note: General Schedule employees in the Los Angeles-Riverside-Orange County, CA CMSA are entitled to higher rates of pay under salary table 94–IGA. Law enforcement officers are entitled to higher rates of pay under salary table 94–LA (LEO 1) or 94–LA (LEO 2). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–MEM—INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF MEMPHIS, TN–AR–MS

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	15,054	15,556	16,058	16,560	17,062	17,564	18,067	18,569	19,071	19,573
GS–4	16,900	17,462	18,025	18,588	19,151	19,714	20,277	20,840	21,403	21,965
GS–5	18,907	19,537	20,166	20,796	21,426	22,056	22,686	23,316	23,946	24,576
GS–6	21,075	21,777	22,479	23,181	23,883	24,585	25,287	25,989	26,691	27,393
GS–7	23,419	24,199	24,980	25,760	26,541	27,321	28,101	28,882	29,662	30,442
GS–8	25,936	26,801	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721
GS–9	28,648	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239
GS–10	31,549	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–NY—INCORPORATING THE 5.77 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY–NJ–PA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,590	$13,010	$13,428	$13,845	$14,265	$14,512	$14,923	$15,340	$15,359	$15,750
GS–2	14,154	14,492	14,961	15,359	15,350	15,987	16,444	16,901	17,358	17,815
GS–3	15,446	15,961	16,476	16,991	17,506	18,021	18,536	19,051	19,566	20,081
GS–4	17,339	17,916	18,494	19,071	19,649	20,226	20,804	21,381	21,959	22,536
GS–5	19,398	20,044	20,691	21,337	21,983	22,629	23,276	23,922	24,568	25,215
GS–6	21,623	22,343	23,063	23,783	24,504	25,224	25,944	26,665	27,385	28,105
GS–7	24,028	24,828	25,629	26,430	27,230	28,031	28,832	29,633	30,433	31,234
GS–8	26,611	27,498	28,385	29,273	30,160	31,048	31,935	32,823	33,710	34,597
GS–9	29,392	30,372	31,351	32,331	33,310	34,290	35,269	36,248	37,228	38,207
GS–10	32,369	33,448	34,527	35,605	36,684	37,763	38,842	39,921	41,000	42,078
GS–11	35,563	36,749	37,934	39,120	40,306	41,491	42,677	43,863	45,049	46,234
GS–12	42,623	44,044	45,464	46,885	48,305	49,726	51,146	52,567	53,987	55,408
GS–13	50,685	52,374	54,063	55,752	57,442	59,131	60,820	62,509	64,198	65,887
GS–14	59,894	61,891	63,888	65,885	67,882	69,879	71,876	73,873	75,870	77,867
GS–15	70,452	72,800	75,149	77,497	79,845	82,193	84,541	86,889	89,237	91,585

Note: General Schedule employees in the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA are entitled to higher rates of pay under salary table 94–IGA. Law enforcement officers are entitled to higher rates of pay under salary table 94–NY (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–NFK—INCORPORATING THE 3.28 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA–NC

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,293	$12,703	$13,111	$13,519	$13,929	$14,170	$14,572	$14,979	$14,997	$15,379
GS–2	13,821	14,150	14,609	14,997	15,165	15,611	16,057	16,503	16,949	17,395
GS–3	15,082	15,585	16,088	16,591	17,094	17,597	18,100	18,603	19,106	19,609
GS–4	16,931	17,495	18,059	18,622	19,186	19,750	20,314	20,878	21,442	22,006
GS–5	18,942	19,573	20,204	20,835	21,466	22,097	22,728	23,359	23,990	24,621
GS–6	21,114	21,817	22,520	23,224	23,927	24,630	25,334	26,037	26,740	27,444
GS–7	23,462	24,244	25,026	25,808	26,589	27,371	28,153	28,935	29,717	30,499
GS–8	25,984	26,851	27,717	28,584	29,450	30,317	31,183	32,050	32,916	33,783
GS–9	28,700	29,657	30,613	31,570	32,526	33,482	34,439	35,395	36,351	37,308
GS–10	31,607	32,660	33,714	34,767	35,821	36,874	37,928	38,981	40,034	41,088
GS–11	34,726	35,884	37,041	38,199	39,357	40,515	41,672	42,830	43,988	45,146
GS–12	41,620	43,007	44,394	45,781	47,168	48,555	49,942	51,329	52,716	54,103
GS–13	49,492	51,141	52,791	54,440	56,089	57,739	59,388	61,037	62,687	64,336
GS–14	58,484	60,434	62,384	64,334	66,284	68,234	70,184	72,134	74,084	76,034
GS–15	68,794	71,087	73,379	75,672	77,965	80,258	82,551	84,843	87,136	89,429

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94—OKC-INCORPORATING THE 3.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF OKLAHOMA CITY, OK

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,301	$12,711	$13,119	$13,527	$13,937	$14,178	$14,580	$14,987	$15,006	$15,388
GS–2	13,829	14,159	14,617	15,006	15,173	15,620	16,066	16,513	16,959	17,406
GS–3	15,091	15,594	16,097	16,601	17,104	17,607	18,110	18,614	19,117	19,620
GS–4	16,941	17,505	18,069	18,633	19,197	19,762	20,326	20,890	21,454	22,019
GS–5	18,953	19,584	20,215	20,847	21,478	22,110	22,741	23,372	24,004	24,635
GS–6	21,126	21,830	22,533	23,237	23,941	24,645	25,348	26,052	26,756	27,460
GS–7	23,476	24,258	25,040	25,823	26,605	27,387	28,169	28,952	29,734	30,516
GS–8	25,999	26,866	27,733	28,600	29,467	30,334	31,201	32,068	32,935	33,803
GS–9	28,717	29,674	30,631	31,588	32,545	33,502	34,459	35,416	36,373	37,330
GS–10	31,625	32,679	33,733	34,787	35,841	36,895	37,950	39,004	40,058	41,112
GS–11	34,746	35,904	37,063	38,221	39,380	40,538	41,697	42,855	44,014	45,172
GS–12	41,644	43,032	44,420	45,808	47,195	48,583	49,971	51,359	52,747	54,135
GS–13	49,521	51,171	52,821	54,472	56,122	57,772	59,423	61,073	62,723	64,374
GS–14	58,518	60,469	62,420	64,372	66,323	68,274	70,225	72,176	74,127	76,078
GS–15	68,834	71,128	73,422	75,716	78,010	80,304	82,599	84,893	87,187	89,841

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–PHL—INCORPORATING THE 4.96 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF PHILADELPHIA-WILMINGTON-ATLANTIC CITY, PA–NJ–DE–MD

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,493	$12,910	$13,325	$13,739	$14,156	$14,401	$14,809	$15,222	$15,241	$15,630
GS–2	14,046	14,381	14,847	15,241	15,411	15,865	16,318	16,772	17,225	17,678
GS–3	15,327	15,838	16,350	16,861	17,372	17,883	18,394	18,905	19,417	19,928
GS–4	17,206	17,779	18,352	18,925	19,498	20,072	20,645	21,218	21,791	22,364
GS–5	19,250	19,891	20,532	21,174	21,815	22,456	23,097	23,739	24,380	25,021
GS–6	21,457	22,172	22,887	23,601	24,316	25,031	25,746	26,460	27,175	27,890
GS–7	23,844	24,638	25,433	26,227	27,022	27,816	28,611	29,406	30,200	30,995
GS–8	26,407	27,288	28,168	29,049	29,929	30,810	31,691	32,571	33,452	34,332
GS–9	29,167	30,139	31,111	32,083	33,055	34,027	34,999	35,971	36,943	37,915
GS–10	32,121	33,192	34,262	35,333	36,403	37,474	38,544	39,615	40,686	41,756
GS–11	35,291	36,467	37,644	38,821	39,997	41,174	42,350	43,527	44,704	45,880
GS–12	42,297	43,706	45,116	46,526	47,935	49,345	50,754	52,164	53,574	54,983
GS–13	50,297	51,973	53,649	55,325	57,002	58,678	60,354	62,030	63,707	65,383
GS–14	59,436	61,417	63,399	65,381	67,362	69,344	71,326	73,307	75,289	77,271

SALARY TABLE NO. 94–PHL—INCORPORATING THE 4.96 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF PHILADELPHIA-WILMINGTON-ATLANTIC CITY, PA–NJ–DE–MD—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–15	69,913	72,243	74,573	76,903	79,233	81,563	83,893	86,224	88,554	90,884

Note: Law enforcement officers receiving statutory special salary rates are entitled to higher rates of pay under salary table 94–PHL (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–SAC—INCORPORATING THE 3.69 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SACRAMENTO-YOLO, CA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,342	$12,754	$13,163	$13,573	$13,985	$14,226	$14,630	$15,038	$15,057	$15,440
GS–2	13,876	14,207	14,667	15,057	15,225	15,673	16,121	16,569	17,017	17,465
GS–3	15,142	15,647	16,152	16,657	17,162	17,667	18,172	18,677	19,182	19,687
GS–4	16,998	17,564	18,130	18,696	19,262	19,829	20,395	20,961	21,527	22,093
GS–5	19,017	19,650	20,284	20,917	21,551	22,184	22,818	23,452	24,085	24,719
GS–6	21,197	21,903	22,610	23,316	24,022	24,728	25,434	26,140	26,846	27,553
GS–7	23,555	24,340	25,125	25,910	26,695	27,480	28,265	29,050	29,835	30,620
GS–8	26,087	26,957	27,827	28,697	29,567	30,437	31,307	32,177	33,047	33,917
GS–9	28,814	29,775	30,735	31,695	32,655	33,615	34,575	35,536	36,496	37,456
GS–10	31,732	32,790	33,848	34,905	35,963	37,020	38,078	39,136	40,193	41,251
GS–11	34,864	36,026	37,188	38,351	39,513	40,676	41,838	43,000	44,163	45,325
GS–12	41,785	43,178	44,570	45,963	47,355	48,748	50,140	51,533	52,925	54,318
GS–13	49,688	51,344	53,000	54,656	56,312	57,968	59,624	61,280	62,936	64,592
GS–14	58,717	60,674	62,632	64,590	66,547	68,505	70,463	72,420	74,378	76,336
GS–15	69,067	71,369	73,671	75,973	78,275	80,576	82,878	85,180	87,482	89,784

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94—STL—INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ST. LOUIS, MO–IL

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	15,054	15,556	16,058	16,560	17,062	17,564	18,067	18,569	19,071	19,573
GS–4	16,900	17,462	18,025	18,588	19,151	19,714	20,277	20,840	21,403	21,965
GS–5	18,907	19,537	20,166	20,796	21,426	22,056	22,686	23,316	23,946	24,576
GS–6	21,075	21,777	22,479	23,181	23,883	24,585	25,287	25,989	26,691	27,393
GS–7	23,419	24,199	24,980	25,760	26,541	27,321	28,101	28,882	29,662	30,442
GS–8	25,936	26,801	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721
GS–9	28,648	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239
GS–10	31,549	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–SLC—INCORPORATING THE 3.09 PERCENT LOCALITY PAY AREA OF SALT LAKE CITY-OGDEN, UT

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,608	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	15,054	15,556	16,058	16,560	17,062	17,564	18,067	18,569	19,071	19,573

SALARY TABLE NO. 94–SLC—INCORPORATING THE 3.09 PERCENT LOCALITY PAY AREA OF SALT LAKE CITY-OGDEN, UT—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–4	16,900	17,462	18,025	18,588	19,151	19,714	20,277	20,840	21,403	21,965
GS–5	18,907	19,537	20,166	20,796	21,426	22,056	22,686	23,316	23,946	24,576
GS–6	21,075	21,777	22,479	23,181	23,883	24,585	25,287	25,989	26,691	27,393
GS–7	23,419	24,199	24,980	25,760	26,541	27,321	28,101	28,882	29,662	30,442
GS–8	25,936	26,801	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721
GS–9	28,648	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239
GS–10	31,549	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–SA—INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SAN ANTONIO, TX

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	15,054	15,556	16,058	16,560	17,062	17,564	18,067	18,569	19,071	19,573
GS–4	16,900	17,462	18,025	18,588	19,151	19,714	20,277	20,840	21,403	21,965
GS–5	18,907	19,537	20,166	20,796	21,426	22,056	22,686	23,316	23,946	24,576
GS–6	21,075	21,777	22,479	23,181	23,883	24,585	25,287	25,989	26,691	27,393
GS–7	23,419	24,199	24,980	25,760	26,541	27,321	28,101	28,882	29,662	30,442
GS–8	25,936	26,801	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721
GS–9	28,648	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239
GS–10	31,549	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–SD—INCORPORATING THE 3.88 Percent LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SAN DIEGO, CA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,365	$12,777	$13,188	$13,598	$14,010	$14,252	$14,656	$15,066	$15,084	$15,469
GS–2	13,901	14,233	14,694	15,084	15,253	15,701	16,150	16,599	17,048	17,497
GS–3	15,170	15,675	16,181	16,687	17,193	17,699	18,205	18,711	19,217	19,723
GS–4	17,029	17,596	18,163	18,731	19,298	19,865	20,432	20,999	21,567	22,134
GS–5	19,052	19,686	20,321	20,956	21,590	22,225	22,860	23,495	24,129	24,764
GS–6	21,236	21,944	22,651	23,358	24,066	24,773	25,481	26,188	26,896	27,603
GS–7	23,598	24,385	25,171	25,958	26,744	27,530	28,317	29,103	29,889	30,676
GS–8	26,135	27,007	27,878	28,750	29,621	30,493	31,364	32,236	33,108	33,979
GS–9	28,867	29,829	30,791	31,753	32,715	33,677	34,639	35,601	36,563	37,525
GS–10	31,790	32,850	33,910	34,969	36,029	37,088	38,148	39,207	40,267	41,327
GS–11	34,928	36,092	37,257	38,421	39,586	40,750	41,915	43,079	44,244	45,408
GS–12	41,862	43,257	44,652	46,047	47,442	48,837	50,232	51,627	53,022	54,418
GS–13	49,779	51,438	53,097	54,756	56,415	58,074	59,733	61,392	63,051	64,710
GS–14	58,824	60,785	62,747	64,708	66,669	68,630	70,592	72,553	74,514	76,475
GS–15	69,193	71,500	73,806	76,112	78,418	80,724	83,030	85,336	87,643	89,949

Note: Law enforcement officers are entitled to higher rates of pay under salary table 94–SD (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–SF—INCORPORATING THE 6.18 PERCENT LOCALITY PAY AREA OF SAN FRANCISCO-OAKLAND-SAN JOSE, CA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,639	$13,060	$13,480	$13,899	$14,320	$14,568	$14,981	$15,399	$15,418	$15,811
GS–2	14,209	14,548	15,019	15,418	15,590	16,049	16,508	16,967	17,425	17,884
GS–3	15,505	16,023	16,540	17,057	17,574	18,091	18,608	19,125	19,642	20,159
GS–4	17,406	17,986	18,566	19,145	19,725	20,305	20,885	21,464	22,044	22,624
GS–5	19,473	20,122	20,771	21,420	22,068	22,717	23,366	24,015	24,663	25,312
GS–6	21,706	22,429	23,153	23,876	24,599	25,322	26,045	26,768	27,491	28,214
GS–7	24,121	24,925	25,728	26,532	27,336	28,140	28,944	29,747	30,551	31,355
GS–8	26,714	27,605	28,496	29,386	30,277	31,168	32,059	32,950	33,841	34,731
GS–9	29,506	30,490	31,473	32,456	33,439	34,422	35,406	36,389	37,372	38,355
GS–10	32,494	33,577	34,660	35,743	36,826	37,909	38,992	40,076	41,159	42,242
GS–11	35,701	36,891	38,081	39,272	40,462	41,652	42,843	44,033	45,223	46,413
GS–12	42,788	44,214	45,640	47,066	48,492	49,918	51,344	52,770	54,196	55,622
GS–13	50,881	52,577	54,273	55,969	57,664	59,360	61,056	62,751	64,447	66,143
GS–14	60,127	62,131	64,136	66,141	68,145	70,150	72,155	74,159	76,164	78,169
GS–15	70,725	73,083	75,440	77,797	80,154	82,511	84,869	87,226	89,583	91,940

Note: General Schedule employees in the San Francisco-Oakland-San Jose, CA CMSA are entitled to higher rates of pay under salary table 94–IGA. Law enforcement officers are entitled to higher rates of pay under salary table 94–SF (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–SEA—INCORPORATING THE 3.92 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SEATTLE-TACOMA-BREMERTON, WA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,370	$12,782	$13,193	$13,603	$14,016	$14,258	$14,662	$15,072	$15,090	$15,475
GS–2	13,907	14,238	14,699	15,090	15,259	15,708	16,156	16,605	17,054	17,503
GS–3	15,175	15,682	16,188	16,694	17,200	17,706	18,212	18,718	19,224	19,730
GS–4	17,036	17,603	18,170	18,738	19,305	19,873	20,440	21,007	21,575	22,142
GS–5	19,059	19,694	20,329	20,964	21,599	22,234	22,869	23,504	24,139	24,773
GS–6	21,244	21,952	22,660	23,367	24,075	24,783	25,491	26,198	26,906	27,614
GS–7	23,608	24,394	25,181	25,968	26,754	27,541	28,328	29,114	29,901	30,688
GS–8	26,145	27,017	27,889	28,761	29,633	30,505	31,377	32,248	33,120	33,992
GS–9	28,878	29,841	30,803	31,765	32,728	33,690	34,652	35,614	36,577	37,539
GS–10	31,803	32,863	33,923	34,983	36,043	37,103	38,163	39,223	40,283	41,342
GS–11	34,941	36,106	37,271	38,436	39,601	40,766	41,931	43,096	44,261	45,426
GS–12	41,878	43,273	44,669	46,065	47,460	48,856	50,252	51,647	53,043	54,438
GS–13	49,798	51,458	53,118	54,777	56,437	58,096	59,756	61,416	63,075	64,735
GS–14	58,847	60,809	62,771	64,733	66,695	68,657	70,619	72,581	74,543	76,505
GS–15	69,220	71,527	73,834	76,141	78,448	80,755	83,062	85,369	87,676	89,983

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–DCB—INCORPORATING THE 4.23 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF WASHINGTON-BALTIMORE, DC–MD–VA–WV (INCLUDING ST. MARY'S COUNTY, MD)

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,406	$12,820	$13,232	$13,644	$14,058	$14,300	$14,706	$15,116	$15,135	$15,521
GS–2	13,948	14,281	14,743	15,135	15,304	15,754	16,205	16,655	17,105	17,555
GS–3	15,221	15,728	16,236	16,744	17,251	17,759	18,266	18,774	19,282	19,789
GS–4	17,086	17,656	18,225	18,794	19,363	19,932	20,501	21,070	21,639	22,208
GS–5	19,116	19,753	20,389	21,026	21,663	22,300	22,937	23,574	24,211	24,847
GS–6	21,308	22,018	22,727	23,437	24,147	24,857	25,567	26,276	26,986	27,696
GS–7	23,678	24,467	25,256	26,045	26,834	27,623	28,412	29,201	29,990	30,779
GS–8	26,223	27,098	27,972	28,847	29,721	30,596	31,470	32,345	33,219	34,094
GS–9	28,964	29,930	30,895	31,860	32,825	33,790	34,755	35,721	36,686	37,651
GS–10	31,898	32,961	34,024	35,087	36,150	37,213	38,276	39,340	40,403	41,466
GS–11	35,045	36,214	37,382	38,551	39,719	40,887	42,056	43,224	44,393	45,561
GS–12	42,003	43,402	44,802	46,202	47,602	49,002	50,401	51,801	53,201	54,601
GS–13	49,947	51,612	53,276	54,941	56,605	58,270	59,934	61,599	63,263	64,928

SALARY TABLE NO. 94–DCB—INCORPORATING THE 4.23 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF WASHINGTON-BALTIMORE, DC–MD–VA–WV (INCLUDING ST. MARY'S COUNTY, MD)—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–14	59,022	60,990	62,958	64,926	66,894	68,862	70,829	72,797	74,765	76,733
GS–15	69,427	71,740	74,054	76,368	78,682	80,996	83,310	85,624	87,938	90,252

Note: Law enforcement officers receiving statutory special salary rates are entitled to higher rates of pay under salary table 94–DCB (LEO). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

SALARY TABLE NO. 94–RUS—INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF REST OF U.S.

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,855	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	15,054	15,556	16,058	16,560	17,062	17,564	18,067	18,569	19,071	19,573
GS–4	16,900	17,462	18,025	18,588	19,151	19,714	20,277	20,840	21,403	21,965
GS–5	18,907	19,537	20,166	20,796	21,426	22,056	22,686	23,316	23,946	24,576
GS–6	21,075	21,777	22,479	23,181	23,883	24,585	25,287	25,989	26,691	27,393
GS–7	23,419	24,199	24,980	25,760	26,541	27,321	28,101	28,882	29,662	30,442
GS–8	25,936	36,801	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721
GS–9	28,648	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239
GS–10	31,549	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables" cover sheet.

1994 Salary Tables for Law Enforcement Officers

January 1994

Law enforcement officers (LEO's) may be paid the greater of (1) the applicable special law enforcement adjusted rate of pay, or (2) the applicable locality rate of pay.

Special pay adjustments for LEO's with duty stations in selected locations are authorized by section 404 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). Public Law 103–123, October 28, 1993, canceled the general pay adjustment for the General Schedule for 1994. Therefore, there is no statutory basis for adjusting the special law enforcement adjusted rates of pay.

The attached 1994 salary tables for LEO's show the rates of pay applicable to LEO's in each of the 28 locality pay areas. These rates of pay are computed based on the annual rates shown on the General Schedule (salary table 94–GS), including special salary rates for LEO's at grades GS–3 through GS–10 under section 403 of FEPCA and incorporating the greater of the applicable locality pay adjustment authorized by the President on December 1, 1993, or the special pay adjustment for LEO's under section 404 of FEPCA.

The special law enforcement adjusted rates of pay and the locality rates of pay for LEO's are considered basic pay for retirement, life insurance, premium pay, and severance pay purposes and for advances in pay. They are also used to compute workers' compensation payments and lump-sum payments for accrued and accumulated annual leave. They are *NOT* considered basic pay for any other purpose.

SALARY TABLE NO. 94–ATL (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.86 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ATLANTA, GA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,362	$12,775	$13,185	$13,595	$14,008	$14,250	$14,654	$15,063	$15,082	$15,466
GS–2	13,899	14,230	14,691	15,082	15,250	15,698	16,147	16,596	17,044	17,493
GS–3	18,201	18,707	19,213	19,719	20,225	20,730	21,236	21,742	22,248	22,754
GS–4	20,428	20,995	21,562	22,129	22,697	23,264	23,831	24,398	24,965	25,532
GS–5	23,490	24,125	24,759	25,394	26,028	26,663	27,298	27,932	28,567	29,201

SALARY TABLE NO. 94–ATL (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.86 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ATLANTA, GA—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–6	24,769	25,476	26,183	26,890	27,598	28,305	29,012	29,720	30,427	31,134
GS–7	26,739	27,525	28,311	29,097	29,884	30,670	31,456	32,242	33,029	33,815
GS–8	27,873	28,744	29,616	30,487	31,358	32,230	33,101	33,973	34,844	35,715
GS–9	29,823	30,785	31,747	32,709	33,670	34,632	35,594	36,556	37,517	38,479
GS–10	32,844	33,903	34,962	36,022	37,081	38,141	39,200	40,259	41,319	42,378
GS–11	34,921	36,085	37,249	38,414	39,578	40,742	41,906	43,071	44,235	45,399
GS–12	41,854	43,248	44,643	46,038	47,433	48,828	50,223	51,617	53,012	54,407
GS–13	49,770	51,428	53,087	54,746	56,404	58,063	59,722	61,380	63,039	64,698
GS–14	58,813	60,774	62,735	64,695	66,656	68,617	70,578	72,539	74,500	76,461
GS–15	69,180	71,486	73,791	76,097	78,403	80,709	83,014	85,320	87,626	89,931

NOTE: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–BOS (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 16 PERCENT LEO SPECIAL PAY ADJUSTMENT FOR THE BOSTON-WORCESTER-LAWRENCE, MA–NH–ME–CT CMSA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$13,807	$14,268	$14,726	$15,184	$15,645	$15,915	$16,366	$16,823	$16,844	$17,274
GS–2	15,523	15,893	16,408	16,844	17,032	17,533	18,035	18,536	19,037	19,538
GS–3	20,329	20,894	21,459	22,024	22,589	23,154	23,719	24,283	24,848	25,413
GS–4	22,816	23,449	24,083	24,716	25,349	25,983	26,616	27,250	27,883	28,516
GS–5	26,236	26,944	27,653	28,362	29,071	29,780	30,488	31,197	31,906	32,615
GS–6	27,664	28,454	29,244	30,034	30,824	31,613	32,403	33,193	33,983	34,773
GS–7	29,864	30,742	31,620	32,499	33,377	34,255	35,133	36,011	36,889	37,767
GS–8	31,131	32,104	33,077	34,051	35,024	35,997	36,970	37,944	38,917	39,890
GS–9	33,309	34,384	35,458	36,532	37,606	38,680	39,754	40,829	41,903	42,977
GS–10	36,683	37,866	39,049	40,232	41,415	42,599	43,782	44,965	46,148	47,331
GS–11	39,003	40,303	41,603	42,904	44,204	45,504	46,805	48,105	49,406	50,706
GS–12	46,746	48,304	49,861	51,419	52,977	54,535	56,093	57,651	59,209	60,767
GS–13	55,587	57,440	59,292	61,145	62,997	64,850	66,702	68,555	70,407	72,260
GS–14	65,687	67,877	70,067	72,258	74,448	76,638	78,828	81,018	83,208	85,398
GS–15	77,266	79,842	82,417	84,992	87,567	90,142	92,718	95,293	97,868	100,443

Note: Special law enforcement adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–CHI (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO's), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 5.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CHICAGO-GARY-KENOSHA, IL–IN–WI

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,539	$12,957	$13,373	$13,789	$14,207	$14,453	$14,862	$15,277	$15,296	$15,686
GS–2	14,097	14,433	14,900	15,296	15,467	15,922	16,377	16,832	17,287	17,742
GS–3	18,461	18,974	19,487	20,000	20,513	21,026	21,539	22,052	22,565	23,078
GS–4	20,719	21,294	21,870	22,445	23,020	23,595	24,170	24,745	25,321	25,896
GS–5	23,825	24,468	25,112	25,756	26,399	27,043	27,687	28,330	28,974	29,617
GS–6	25,121	25,839	26,556	27,274	27,991	28,708	29,426	30,143	30,860	31,578
GS–7	27,120	27,917	28,715	29,512	30,309	31,107	31,904	32,702	33,499	34,297
GS–8	28,270	29,154	30,038	30,922	31,805	32,689	33,573	34,457	35,341	36,224
GS–9	30,248	31,224	32,199	33,175	34,150	35,126	36,101	37,077	38,052	39,027
GS–10	33,312	34,388	35,461	36,535	37,610	38,684	39,758	40,833	41,907	42,982
GS–11	35,418	36,599	37,780	38,961	40,142	41,323	42,504	43,684	44,865	46,046
GS–12	42,450	43,865	45,279	46,694	48,109	49,523	50,938	52,353	53,768	55,182
GS–13	50,479	52,161	53,843	55,526	57,208	58,890	60,573	62,255	63,937	65,619
GS–14	59,651	61,640	63,629	65,617	67,606	69,595	71,584	73,573	75,561	77,550

SALARY TABLE NO. 94–CHI (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO's), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 5.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CHICAGO-GARY-KENOSHA, IL–IN–WI—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–15	70,166	72,504	74,843	77,182	79,520	81,859	84,197	86,536	88,874	91,213

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–CIN (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICIERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.22 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CINCINNATI-HAMILTON, OH–KY–IN

[Effective Janaury 1994]

	Annual rates by grade and steps									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,405	$12,819	$13,231	$13,642	$14,056	$14,299	$14,704	$15,115	$15,134	$15,519
GS–2	13,947	14,279	14,742	15,134	15,303	15,753	16,203	16,653	17,104	17,554
GS–3	18,265	18,772	19,280	19,787	20,295	20,802	21,310	21,817	22,325	22,833
GS–4	20,499	21,068	21,637	22,206	22,775	23,344	23,913	24,482	25,051	25,620
GS–5	23,571	24,208	24,845	25,482	26,119	26,755	27,392	28,029	28,666	29,302
GS–6	24,854	25,564	26,274	26,984	27,693	28,403	29,113	29,823	30,532	31,242
GS–7	26,831	27,620	28,409	29,198	29,987	30,776	31,565	32,354	33,143	33,932
GS–8	27,970	28,844	29,718	30,593	31,467	32,342	33,216	34,090	34,965	35,839
GS–9	29,927	30,892	31,857	32,822	33,787	34,752	35,717	36,682	37,647	38,612
GS–10	32,957	34,021	35,084	36,147	37,210	38,273	39,336	40,399	41,462	42,525
GS–11	35,042	36,210	37,379	38,547	39,715	40,883	42,052	43,220	44,388	45,557
GS–12	41,999	43,398	44,798	46,198	47,597	48,997	50,397	51,796	53,196	54,596
GS–13	49,942	51,607	53,271	54,935	56,600	58,264	59,929	61,593	63,257	64,922
GS–14	59,017	60,984	62,952	64,920	66,887	68,855	70,823	72,790	74,758	76,726
GS–15	69,420	71,734	74,047	76,361	78,675	80,988	83,302	85,616	87,929	90,243

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–CLE (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF CLEVELAND-AKRON, OH

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,301	$12,711	$13,119	$13,527	$13,937	$14,178	$14,580	$14,987	$15,006	$15,388
GS–2	13,829	14,159	14,617	15,006	15,173	15,620	16,066	16,513	16,959	17,406
GS–3	18,110	18,614	19,117	19,620	20,123	20,627	21,130	21,633	22,136	22,640
GS–4	20,326	20,890	21,454	22,019	22,583	23,147	23,711	24,276	24,480	25,404
GS–5	23,372	24,004	24,635	25,267	25,898	26,529	27,161	27,792	28,424	29,055
GS–6	24,645	25,348	26,052	26,756	27,460	28,163	28,867	29,571	30,274	30,978
GS–7	26,605	27,387	28,169	28,952	29,734	30,516	31,299	32,081	32,863	33,645
GS–8	27,733	28,600	29,467	30,334	31,201	32,068	32,935	33,803	34,670	35,537
GS–9	29,674	30,631	31,588	32,545	33,502	34,459	35,416	36,373	37,330	38,286
GS–10	32,679	33,733	34,787	35,841	36,895	37,950	39,004	40,058	41,112	42,166
GS–11	34,746	35,904	37,063	38,221	39,380	40,538	41,697	42,855	44,014	45,172
GS–12	41,644	43,032	44,420	45,808	47,195	48,583	49,971	51,359	52,747	54,135
GS–13	49,521	51,171	52,821	54,472	56,122	57,772	59,423	61,073	62,723	64,374
GS–14	58,518	60,469	62,420	64,372	66,323	68,274	70,225	72,176	74,127	76,078
GS–15	68,834	71,128	73,422	75,716	78,010	80,304	82,599	84,893	87,187	89,481

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–DFW (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.21 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DALLAS-FORT WORTH, TX

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,404	$12,818	$13,229	$13,641	$14,055	$14,298	$14,703	$15,114	$15,132	$15,518
GS–2	13,945	14,278	14,741	15,132	15,301	15,751	16,202	16,652	17,102	17,552
GS–3	18,263	18,770	19,278	19,785	20,293	20,800	21,308	21,815	22,323	22,830
GS–4	20,497	21,066	21,635	22,204	22,773	23,342	23,911	24,480	25,049	25,618
GS–5	23,569	24,206	24,843	25,479	26,116	26,753	27,390	28,026	28,663	29,300
GS–6	24,852	25,562	26,271	26,981	27,691	28,400	29,110	29,820	30,529	31,239
GS–7	26,829	27,618	28,407	29,195	29,984	30,773	31,562	32,351	33,140	33,929
GS–8	27,967	28,841	29,715	30,590	31,464	32,338	33,213	34,087	34,961	35,836
GS–9	29,924	30,889	31,854	32,819	33,784	34,749	35,714	36,679	37,644	38,609
GS–10	32,954	34,017	35,080	36,143	37,206	38,269	39,332	40,395	41,458	42,521
GS–11	35,039	36,207	37,375	38,543	39,711	40,879	42,048	43,216	44,384	45,552
GS–12	41,995	43,394	44,794	46,193	47,593	48,992	50,392	51,791	53,191	54,590
GS–13	49,937	51,602	53,266	54,930	56,594	58,259	59,923	61,587	63,251	64,916
GS–14	59,011	60,978	62,946	64,913	66,881	68,848	70,816	72,783	74,751	76,718
GS–15	69,413	71,727	74,040	76,354	78,667	80,981	83,294	85,607	87,921	90,234

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94—DAY (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.77 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DAYTON-SPRINGFIELD, OH

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,352	$12,764	$13,174	$13,583	$13,995	$14,237	$14,641	$15,050	$15,068	$15,452
GS–2	13,887	14,218	14,678	15,068	15,237	15,685	16,133	16,581	17,030	17,478
GS–3	18,186	18,691	19,196	19,702	20,207	20,712	21,218	21,723	22,229	22,734
GS–4	20,411	20,977	21,544	22,110	22,677	23,243	23,810	24,377	24,943	25,510
GS–5	23,470	24,104	24,738	25,372	26,006	26,640	27,274	27,908	28,542	29,176
GS–6	24,747	25,454	26,160	26,867	27,574	28,280	28,987	29,694	30,400	31,107
GS–7	26,716	27,501	28,287	29,072	29,858	30,643	31,429	32,214	33,000	33,785
GS–8	27,849	28,719	29,590	30,461	31,331	32,202	33,073	33,943	34,814	35,684
GS–9	29,798	30,758	31,719	32,680	33,641	34,602	35,563	36,524	37,485	38,446
GS–10	32,815	33,874	34,932	35,991	37,049	38,107	39,166	40,224	41,283	42,341
GS–11	34,891	36,054	37,217	38,380	39,544	40,707	41,870	43,033	44,197	45,360
GS–12	41,817	43,211	44,604	45,998	47,392	48,785	50,179	51,573	52,966	54,360
GS–13	49,727	51,384	53,041	54,698	56,355	58,013	59,670	61,327	62,984	64,641
GS–14	58,762	60,721	62,680	64,639	66,599	68,558	70,517	72,476	74,435	76,394
GS–15	69,120	71,424	73,728	76,031	78,335	80,639	82,942	85,246	87,550	89,853

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–DEN (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 Through GS–10 AND INCORPORATING THE 4.54 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DENVER-BOULDER-GREELEY, CO

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,443	$12,858	$13,271	$13,684	$14,099	$14,343	$14,750	$15,161	$15,180	$15,567
GS–2	13,990	14,323	14,787	15,180	15,350	15,801	16,253	16,704	17,156	17,608
GS–3	18,321	18,830	19,339	19,848	20,357	20,866	21,375	21,884	22,394	22,903
GS–4	20,562	21,133	21,704	22,274	22,845	23,416	23,987	24,557	25,128	25,699
GS–5	23,644	24,283	24,921	25,560	26,199	26,838	27,476	28,115	28,754	29,392
GS–6	24,931	25,643	26,355	27,066	27,778	28,490	29,202	29,914	30,626	31,338
GS–7	26,914	27,705	28,497	29,288	30,079	30,871	31,662	32,453	33,245	34,036
GS–8	28,055	28,932	29,810	30,687	31,564	32,441	33,318	34,195	35,072	35,949
GS–9	30,019	30,987	31,955	32,923	33,891	34,859	35,827	36,795	37,763	38,731
GS–10	33,059	34,125	35,191	36,258	37,324	38,390	39,457	40,523	41,589	42,655

SALARY TABLE NO. 94–DEN (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 Through GS–10 AND INCORPORATING THE 4.54 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DENVER-BOULDER-GREELEY, CO—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–11	35,149	36,321	37,493	38,665	39,837	41,009	42,181	43,353	44,525	45,697
GS–12	42,128	43,532	44,935	46,339	47,743	49,147	50,551	51,955	53,359	54,763
GS–13	50,096	51,765	53,435	55,104	56,774	58,443	60,113	61,782	63,452	65,121
GS–14	59,198	61,172	63,145	65,119	67,093	69,066	71,040	73,014	74,988	76,961
GS–15	69,633	71,954	74,275	76,595	78,916	81,237	83,558	85,879	88,199	90,520

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–DET (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.84 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF DETROIT-ANN ARBOR-FLINT, MI

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,479	$12,895	$13,309	$13,724	$14,140	$13,384	$14,792	$15,205	$15,224	$15,612
GS–2	14,030	14,364	14,830	15,224	15,394	15,847	16,299	16,752	17,205	17,658
GS–3	18,373	18,884	19,394	19,905	20,415	20,926	21,437	21,947	22,458	22,968
GS–4	20,621	21,193	21,766	22,338	22,911	23,483	24,056	24,628	25,200	25,773
GS–5	23,712	24,352	24,993	25,633	26,274	26,915	27,555	28,196	28,836	29,477
GS–6	25,002	25,716	26,430	27,144	27,858	28,572	29,286	30,000	30,714	31,428
GS–7	26,991	27,785	28,578	29,372	30,166	30,959	31,753	32,547	33,340	34,134
GS–8	28,136	29,016	29,895	30,775	31,654	32,534	33,414	34,293	35,173	36,052
GS–9	30,105	31,076	32,046	33,017	33,988	34,959	35,930	36,901	37,871	38,842
GS–10	33,154	34,223	35,292	36,362	37,431	38,500	39,570	40,639	41,708	42,778
GS–11	35,250	36,426	37,601	38,776	39,951	41,127	42,302	43,477	44,652	45,828
GS–12	42,248	43,656	45,064	46,472	47,880	49,288	50,696	52,104	53,512	54,920
GS–13	50,239	51,914	53,588	55,262	56,937	58,611	60,285	61,959	63,634	65,308
GS–14	59,368	61,347	63,327	65,306	67,285	69,265	71,244	73,223	75,203	77,182
GS–15	69,833	72,160	74,488	76,815	79,143	81,470	83,798	86,125	88,452	90,780

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–HOU (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 6.52 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF HOUSTON-GALVESTON-BRAZORIA, TX

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,679	$13,102	$13,523	$13,943	$14,366	$14,615	$15,029	$15,449	$15,468	$15,862
GS–2	14,255	14,594	15,067	15,468	15,640	16,100	16,561	17,021	17,481	17,941
GS–3	18,668	19,186	19,705	20,224	20,743	21,261	21,780	22,299	22,818	23,336
GS–4	20,951	21,533	22,115	22,696	23,278	23,859	24,441	25,023	25,604	26,186
GS–5	24,092	24,742	25,393	26,044	26,695	27,346	27,997	28,647	29,298	29,949
GS–6	25,403	26,128	26,854	27,579	28,304	29,030	29,755	30,481	31,206	31,932
GS–7	27,424	28,230	29,036	29,843	30,649	31,455	32,262	33,068	33,874	34,681
GS–8	28,587	29,480	30,374	31,268	32,162	33,055	33,949	34,843	35,736	36,630
GS–9	30,587	31,574	32,560	33,546	34,533	35,519	36,505	37,492	38,478	39,465
GS–10	33,685	34,771	35,858	36,944	38,031	39,117	40,204	41,290	42,377	43,463
GS–11	35,815	37,009	38,203	39,397	40,592	41,786	42,980	44,174	45,368	46,562
GS–12	42,925	44,356	45,787	47,217	48,648	50,078	51,509	52,939	54,370	55,801
GS–13	51,044	52,746	54,447	56,148	57,849	59,550	61,251	62,952	64,653	66,355
GS–14	60,319	62,330	64,341	66,352	68,363	70,375	72,386	74,397	76,408	78,419
GS–15	70,952	73,317	75,681	78,046	80,411	82,776	85,140	87,505	89,870	92,235

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–HNT (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.10 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF HUNTSVILLE, AL

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,391	$12,804	$13,215	$13,627	$14,040	$14,283	$14,687	$15,098	$15,116	$15,502
GS–2	13,931	14,263	14,725	15,116	15,285	15,735	16,184	16,634	17,084	17,534
GS–3	18,244	18,750	19,257	19,764	20,271	20,778	21,285	21,792	22,299	22,806
GS–4	20,475	21,044	21,612	22,181	22,749	23,317	23,886	24,454	25,023	25,591
GS–5	23,544	24,180	24,816	25,452	26,089	26,725	27,361	27,997	28,633	29,269
GS–6	24,826	25,535	26,244	26,953	27,661	28,370	29,079	29,788	30,497	31,206
GS–7	26,801	27,589	28,377	29,165	29,953	30,741	31,529	32,317	33,105	33,893
GS–8	27,937	28,811	29,684	30,558	31,431	32,304	33,178	34,051	34,925	35,798
GS–9	29,892	30,856	31,820	32,784	33,748	34,712	35,676	36,640	37,604	38,568
GS–10	32,920	33,981	35,043	36,105	37,167	38,229	39,290	40,352	41,414	42,476
GS–11	35,002	36,169	37,335	38,502	39,669	40,836	42,003	43,170	44,337	45,504
GS–12	41,950	43,348	44,746	46,144	47,542	48,941	50,339	51,737	53,135	54,533
GS–13	49,885	51,547	53,210	54,872	56,535	58,197	59,860	61,522	63,185	64,847
GS–14	58,949	60,914	62,880	64,845	66,810	68,776	70,741	72,707	74,672	76,637
GS–15	69,340	71,651	73,962	76,273	78,584	80,895	83,206	85,517	87,828	90,139

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–IND (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.68 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF INDIANAPOLIS, IN

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,341	$12,753	$13,162	$13,572	$13,983	$14,225	$14,628	$15,037	$15,055	$15,439
GS–2	13,874	14,205	14,666	15,055	15,223	15,671	16,119	16,567	17,015	17,463
GS–3	18,170	18,675	19,180	19,685	20,190	20,695	21,199	21,704	22,209	22,714
GS–4	20,393	20,959	21,525	22,091	22,657	23,223	23,789	24,355	24,922	25,488
GS–5	23,449	24,083	24,716	25,350	25,983	26,617	27,250	27,884	28,517	29,151
GS–6	24,726	25,432	26,138	26,844	27,550	28,256	28,962	29,668	30,374	31,080
GS–7	26,692	27,477	28,262	29,047	29,832	30,617	31,402	32,186	32,971	33,756
GS–8	27,825	28,694	29,564	30,434	31,304	32,174	33,044	33,914	34,784	35,653
GS–9	29,772	30,732	31,692	32,652	33,612	34,572	35,532	36,492	37,452	38,412
GS–10	32,787	33,844	34,902	35,959	37,017	38,074	39,132	40,189	41,247	42,305
GS–11	34,860	36,023	37,185	38,347	39,509	40,672	41,834	42,996	44,158	45,321
GS–12	41,781	43,173	44,566	45,958	47,351	48,743	50,136	51,528	52,920	54,313
GS–13	49,683	51,339	52,995	54,651	56,307	57,962	59,618	61,274	62,930	64,585
GS–14	58,711	60,668	62,626	64,583	66,541	68,498	70,456	72,413	74,371	76,328
GS–15	69,060	71,362	73,664	75,965	78,267	80,569	82,870	85,172	87,474	89,775

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers"

SALARY TABLE NO. 94–KC (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.30 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF KANSAS CITY, MO–KS

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,296	$12,706	$13,114	$13,522	$13,932	$14,173	$14,575	$14,982	$15,000	$15,382
GS–2	13,824	14,153	14,612	15,000	15,168	15,614	16,060	16,506	16,953	17,399
GS–3	18,103	18,606	19,109	19,613	20,116	20,619	21,122	21,625	22,128	22,631
GS–4	20,318	20,882	21,446	22,010	22,574	23,138	23,702	24,266	24,830	25,394
GS–5	23,363	23,995	24,626	25,257	25,888	26,519	27,150	27,782	28,413	29,044
GS–6	24,635	25,338	26,042	26,745	27,449	28,152	28,856	29,559	30,263	30,966
GS–7	26,595	27,377	28,159	28,941	29,723	30,504	31,286	32,068	32,850	33,632
GS–8	27,723	28,589	29,456	30,323	31,189	32,056	32,923	33,789	34,656	35,523
GS–9	29,663	30,619	31,576	32,532	33,489	34,445	35,402	36,359	37,315	38,272
GS–10	32,667	33,720	34,774	35,828	36,881	37,935	38,989	40,042	41,096	42,149
GS–11	34,733	35,891	37,049	38,207	39,365	40,523	41,681	42,839	43,997	45,154

SALARY TABLE NO. 94–KC (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.30 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF KANSAS CITY, MO–KS—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–12	41,628	43,015	44,402	45,790	47,177	48,564	49,952	51,339	52,726	54,114
GS–13	49,501	51,151	52,801	54,450	56,100	57,750	59,400	61,049	62,699	64,349
GS–14	58,496	60,446	62,396	64,347	66,297	68,247	70,198	72,148	74,098	76,048
GS–15	68,807	71,100	73,394	75,687	77,980	80,273	82,567	84,860	87,153	89,446

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–LA (LEO 1)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 16 PERCENT LEO SPECIAL PAY ADJUSTMENT FOR THE LOS ANGELES-RIVERSIDE-ORANGE COUNTY, CA CMSA

[Effective January 1993]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$13,807	$14,268	$14,726	$15,184	$15,654	$15,915	$16,366	$16,823	$16,844	$17,274
GS–2	15,523	15,893	16,408	16,844	17,032	17,533	18,035	18,536	19,037	19,538
GS–3	20,329	20,894	21,459	22,024	22,589	23,154	23,719	24,283	24,848	25,413
GS–4	22,816	23,449	24,083	24,716	25,349	25,983	26,616	27,250	27,883	28,516
GS–5	26,236	26,944	27,653	28,362	29,071	29,780	30,488	31,906	31,906	32,615
GS–6	27,664	28,454	29,244	30,034	30,824	31,613	32,403	33,193	33,983	34,773
GS–7	39,864	30,742	31,620	32,499	33,377	34,255	35,133	36,011	36,889	37,767
GS–8	31,131	32,104	33,077	34,051	35,024	35,997	36,970	37,944	38,917	39,890
GS–9	33,309	34,384	35,458	36,532	37,606	36,680	39,754	40,829	41,903	42,977
GS–10	36,683	37,866	39,049	40,232	41,415	42,599	43,789	44,965	46,148	47,331
GS–11	39,003	40,303	41,603	42,904	44,204	45,504	46,805	48,105	49,406	50,706
GS–12	46,746	48,304	49,861	51,419	52,977	54,535	56,093	57,651	59,209	60,767
GS–13	55,587	57,440	59,292	61,145	62,997	64,850	66,702	68,555	70,407	72,260
GS–14	65,687	67,877	70,067	72,258	74,448	76,638	78,828	81,018	83,208	85,398
GS–15	77,266	79,842	82,417	84,992	87,567	90,142	92,718	95,293	97,868	100,443

Note: This salary table applies only to law enforcement officers whose official duty stations are located within the Los Angeles-Riverside-Orange County, CA CMSA. Law enforcement officers whose official duty stations are located in Santa Barbara County or that portion of Edwards Air Force Base outside the Los Angeles-Riverside-Orange County, CA CMSA are entitled to the rates of pay under salary table 94–LA (LEO 2). Special law enforcement adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–LA (LEO 2)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 5.69 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF LOS ANGELES-RIVERSIDE-ORANGE COUNTY, CA (INCLUDING SANTA BARBARA COUNTY AND ALL OF EDWARDS AIR FORCE BASE)

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,580	$13,000	$13,417	$13,835	$14,254	$14,501	$14,912	$15,328	$15,347	$15,738
GS–2	14,143	14,481	14,950	15,347	15,518	15,975	16,432	16,888	17,345	17,801
GS–3	18,522	19,037	19,552	20,066	20,581	21,096	21,610	22,125	22,640	23,155
GS–4	20,788	21,365	21,942	22,519	23,096	23,674	24,251	24,828	25,405	25,982
GS–5	23,904	24,550	25,195	25,841	26,487	27,133	27,779	28,424	29,070	29,716
GS–6	25,205	25,925	26,644	27,364	28,084	28,804	29,523	30,243	30,963	31,683
GS–7	27,210	28,010	28,810	29,610	30,410	31,210	32,010	32,810	33,610	34,411
GS–8	28,364	29,251	30,138	31,024	31,911	32,798	33,684	34,571	35,458	36,345
GS–9	30,349	31,328	32,306	33,285	34,264	35,242	36,221	37,200	38,178	39,157
GS–10	33,422	34,500	35,578	36,656	37,735	38,813	39,891	40,969	42,047	43,125
GS–11	35,536	36,721	37,906	39,091	40,275	41,460	42,645	43,830	45,014	46,199
GS–12	42,591	44,010	45,430	46,849	48,269	49,688	51,107	52,527	53,946	55,366
GS–13	50,647	52,335	54,022	55,710	57,398	59,086	60,774	62,462	64,150	65,837
GS–14	59,849	61,845	63,840	65,835	67,831	69,826	71,822	73,817	75,812	77,808

SALARY TABLE NO. 94–LA (LEO 2)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 5.69 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF LOS ANGELES-RIVERSIDE-ORANGE COUNTY, CA (INCLUDING SANTA BARBARA COUNTY AND ALL OF EDWARDS AIR FORCE BASE)—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–15	70,399	72,745	75,092	77,438	79,784	82,131	84,477	86,823	89,170	91,516

Note: This salary table applies only to law enforcement officers whose official duty stations are located in Santa Barbara County or that portion of Edwards Air Force Base outside the Los Angeles-Riverside-Orange County, CA CMSA. Law enforcement officers whose official duty stations are located within the Los Angeles-Riverside-Orange County, CA CMSA are entitled to the rates of pay under salary table 94–LA (LEO 1). Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–MEM (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF MEMPHIS, TN–AR–MS

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	18,067	18,569	19,071	19,573	20,075	20,577	21,079	21,581	22,083	22,585
GS–4	20,277	20,840	21,403	21,965	22,528	23,091	23,654	24,217	24,780	25,343
GS–5	23,316	23,946	24,576	25,206	25,835	26,465	27,095	27,725	28,355	28,985
GS–6	24,585	25,287	25,989	26,691	27,393	28,095	28,797	29,499	30,201	30,903
GS–7	26,541	27,321	28,101	28,882	29,662	30,442	31,223	32,003	32,784	33,564
GS–8	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721	34,586	35,451
GS–9	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239	38,194
GS–10	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012	42,064
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–NY (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 16 PERCENT LEO SPECIAL PAY ADJUSTMENT FOR THE NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY–NJ–CT–PA CMSA

[Effective January 1993]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$13,807	$14,268	$14,726	$15,184	$15,645	$15,915	$16,366	$16,823	$16,844	$17,274
GS–2	15,523	15,893	16,408	16,844	17,032	17,533	18,035	18,536	19,037	19,538
GS–3	20,329	20,894	21,459	22,024	22,589	23,154	23,719	24,283	24,848	25,413
GS–4	22,816	23,449	24,083	24,716	25,349	25,983	26,616	27,250	27,883	28,516
GS–5	26,236	26,944	27,653	28,362	29,071	29,780	30,488	31,197	31,906	32,615
GS–6	27,664	28,454	29,244	30,034	30,824	31,613	32,403	33,193	33,983	34,773
GS–7	29,864	30,742	31,620	32,499	33,377	34,255	35,133	36,011	36,889	37,767
GS–8	31,131	32,104	33,077	34,051	35,024	35,997	36,970	37,944	38,917	39,890
GS–9	33,309	34,384	35,458	36,532	37,606	38,680	39,754	40,829	41,903	42,977
GS–10	36,683	37,866	39,049	40,232	41,415	42,599	43,782	44,965	46,148	47,331
GS–11	39,003	40,303	41,603	42,904	44,204	45,504	46,805	48,105	49,406	50,706
GS–12	46,746	48,304	49,861	51,419	52,977	54,535	56,093	57,651	59,209	60,767
GS–13	55,587	57,440	59,292	61,145	62,997	64,850	66,702	68,555	70,407	72,260
GS–14	65,687	67,877	70,067	72,258	74,448	76,638	78,828	81,018	83,208	85,398
GS–15	77,266	79,842	82,417	84,992	87,567	90,142	92,718	95,293	97,868	100,443

Note: Special law enforcement adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–NFK (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.28 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA–NC

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,293	$12,703	$13,111	$13,519	$13,929	$14,170	$14,572	$14,979	$14,997	$15,379
GS–2	13,821	14,150	14,609	14,997	15,165	15,611	16,057	16,503	16,949	17,395
GS–3	18,100	18,603	19,106	19,609	20,112	20,615	21,118	21,621	22,124	22,627
GS–4	20,314	20,878	21,442	22,006	22,570	23,134	23,698	24,262	24,825	25,389
GS–5	23,359	23,990	24,621	25,252	25,883	26,514	27,145	27,776	28,407	29,038
GS–6	24,630	25,334	26,037	26,740	27,444	28,147	28,850	29,554	30,257	30,960
GS–7	26,589	27,371	28,153	28,935	29,717	30,499	31,280	32,062	32,844	33,626
GS–8	27,717	28,584	29,450	30,317	31,183	32,050	32,916	33,783	34,649	35,516
GS–9	29,657	30,613	31,570	32,526	33,482	34,439	35,395	36,351	37,308	38,264
GS–10	32,660	33,714	34,767	35,821	36,874	37,928	38,981	40,034	41,088	42,141
GS–11	34,726	35,884	37,041	38,199	39,357	40,515	41,672	42,830	43,988	45,146
GS–12	41,620	43,007	44,394	45,781	47,168	48,555	49,942	51,329	52,716	54,103
GS–13	49,492	51,141	52,791	54,440	56,089	57,739	59,388	61,037	62,687	64,336
GS–14	58,484	60,434	62,384	64,334	66,284	68,234	70,184	72,134	74,084	76,034
GS–15	68,794	71,087	73,379	75,672	77,965	80,258	82,551	84,843	87,136	89,429

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–OKC (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.34 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF OKLAHOMA CITY, OK

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,301	$12,711	$13,119	$13,527	$13,937	$14,178	$14,580	$14,987	$15,006	$15,388
GS–2	13,829	14,159	14,617	15,006	15,173	15,620	16,066	16,513	16,959	17,406
GS–3	18,110	18,614	19,117	19,620	20,123	20,627	21,130	21,633	22,136	22,640
GS–4	20,326	20,890	21,454	22,019	22,583	23,147	23,711	24,276	24,840	25,404
GS–5	23,372	24,004	24,635	25,267	25,898	26,529	27,161	27,792	28,424	29,055
GS–6	24,645	25,348	26,052	26,756	27,460	28,163	28,867	29,571	30,274	30,978
GS–7	26,605	27,387	28,169	28,952	29,734	30,516	31,299	32,081	32,863	33,645
GS–8	27,733	28,600	29,467	30,334	31,201	32,068	32,935	33,803	34,670	35,537
GS–9	29,674	30,631	31,588	32,545	33,502	34,459	35,416	36,373	37,330	38,286
GS–10	32,679	33,733	34,787	35,841	36,895	37,950	39,004	40,058	41,112	42,166
GS–11	34,746	35,904	37,063	38,221	39,380	40,538	41,697	42,855	44,014	45,172
GS–12	41,644	43,032	44,420	45,808	47,195	48,583	49,971	51,359	52,747	54,135
GS–13	49,521	51,171	52,821	54,472	56,122	57,772	59,423	61,073	62,723	64,374
GS–14	58,518	60,469	62,420	64,372	66,323	68.274	70,225	72,176	74,127	76,078
GS–15	68,834	71,128	73,422	75,716	78,010	80,304	82,599	84,893	87,187	89,481

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–PHL (LEO) RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S) INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.96 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF PHILADELPHIA-WILMINGTON-ATLANTIC CITY, PA–NJ–DE–MD

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,493	$12,910	$13,325	$13,739	$14,156	$14,401	$14,809	$15,222	$15,241	$15,630
GS–2	14,046	14,381	14,847	15,241	15,411	15,865	16,318	16,772	17,225	17,678
GS–3	18,394	18,905	19,417	19,928	20,439	20,950	21,461	21,972	22,483	22,995
GS–4	20,645	21,218	21,791	22,364	22,937	23,510	24,083	24,656	25,229	25,802
GS–5	23,739	24,380	25,021	25,663	26,304	26,945	27,587	28,228	28,869	29,511
GS–6	25,031	25,746	26,460	27,175	27,890	28,605	29,320	30,034	30,749	31,464
GS–7	27,022	27,816	28,611	29,406	30,200	30,995	31,789	32,584	33,378	34,173
GS–8	28,168	29,049	29,929	30,810	31,691	32,571	32,452	34,332	35,213	36,094
GS–9	30,139	31,111	32,083	33,055	34,027	34,999	35,971	36,943	37,915	38,887
GS–10	33,192	34,262	35,333	36,403	37,474	38,544	39,615	40,686	41,756	42,827

SALARY TABLE NO. 94–PHL (LEO) RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO's) INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.96 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF PHILADELPHIA-WILMINGTON-ATLANTIC CITY, PA–NJ–DE–MD—Continued

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–11	35,291	36,467	37,644	38,821	39,997	41,174	42,350	43,527	44,704	45,880
GS–12	42,297	43,706	45,116	46,526	47,935	49,345	50,754	52,164	53,574	54,983
GS–13	50,297	51,973	53,649	55,325	57,002	58,678	60,354	62,030	63,707	65,383
GS–14	59,436	61,417	63,399	65,381	67,362	69,344	71,326	73,307	75,289	77,271
GS–15	69,913	72,243	74,573	76,903	79,233	81,563	83,893	86,224	88,554	90,884

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–SAC (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.69 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SACRAMENTO-YOLO, CA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,342	$12,754	$13,163	$13,573	$13,985	$14,226	$14,630	$15,038	$15,057	$15,440
GS–2	13,876	14,207	14,667	15,057	15,225	15,673	16,121	16,569	17,017	17,465
GS–3	18,172	18,677	19,182	19,687	20,192	20,697	21,201	21,706	22,211	22,716
GS–4	20,395	20,961	21,527	22,093	22,659	23,226	23,792	24,358	24,924	25,490
GS–5	23,452	24,085	24,719	25,352	25,986	26,619	27,253	27,886	28,520	29,153
GS–6	24,728	25,434	26,140	26,846	27,553	28,259	28,965	29,671	30,377	31,083
GS–7	26,695	27,480	28,265	29,050	29,835	30,620	31,405	32,190	32,974	33,759
GS–8	27,827	28,697	29,567	30,437	31,307	32,177	33,047	33,917	34,787	35,657
GS–9	29,775	30,735	31,695	32,655	33,615	34,575	35,536	36,496	37,456	38,416
GS–10	32,790	33,848	34,905	35,963	37,020	38,078	39,136	40,193	41,251	42,309
GS–11	34,864	36,026	37,188	38,351	39,513	40,676	41,838	43,000	44,163	45,325
GS–12	41,785	43,178	44,570	45,963	47,355	48,748	50,140	51,533	52,925	54,318
GS–13	49,688	51,344	53,000	54,656	56,312	57,968	59,624	61,280	62,936	64,592
GS–14	58,717	60,674	62,632	64,590	66,547	68,505	70,463	72,420	74,378	76,336
GS–15	69,067	71,369	73,671	75,973	78,275	80,576	82,878	85,180	87,482	89,784

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–STL (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ST. LOUIS, MO–IL

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	18,067	18,569	19,071	19,573	20,075	20,577	21,079	21,581	22,083	22,585
GS–4	20,277	20,840	21,403	21,965	22,528	23,091	23,654	24,217	24,780	25,343
GS–5	23,316	23,946	24,576	25,206	25,835	26,465	27,095	27,725	28,355	28,985
GS–6	24,585	25,287	25,989	26,691	27,393	28,095	28,797	29,499	30,201	30,903
GS–7	26,541	27,321	28,101	28,882	29,662	30,442	31,223	32,003	32,784	33,564
GS–8	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721	34,586	35,451
GS–9	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239	38,194
GS–10	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012	42,064
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–SLC (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO's), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SALT LAKE CITY-OGDEN, UT

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	18,067	18,569	19,071	19,573	20,075	20,577	21,079	21,581	22,083	22,585
GS–4	20,277	20,840	21,403	21,965	22,528	23,091	23,654	24,217	24,780	25,343
GS–5	23,316	23,946	24,576	25,206	25,835	26,465	27,095	27,725	28,355	28,985
GS–6	24,585	25,287	25,989	26,691	27,393	28,095	28,797	29,499	30,201	30,903
GS–7	26,541	27,321	28,101	28,882	29,662	30,442	31,223	32,003	32,784	33,564
GS–8	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721	34,586	35,451
GS–9	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239	38,194
GS–10	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012	42,064
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–SA (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SAN ANTONIO, TX

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	18,067	18,569	19,071	19,573	20,075	20,577	21,079	21,581	22,083	22,585
GS–4	20,277	20,840	21,403	21,965	22,528	23,091	23,654	24,217	24,780	25,343
GS–5	23,316	23,946	24,576	25,206	25,835	26,465	27,095	27,725	28,355	28,985
GS–6	24,585	25,287	25,989	26,691	27,393	28,095	28,797	29,499	30,201	30,903
GS–7	26,541	27,321	28,101	28,882	29,662	30,442	31,223	32,003	32,784	33,564
GS–8	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721	34,586	35,451
GS–9	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239	38,194
GS–10	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012	42,064
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–SD (LEO)— RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 8 PERCENT LEO SPECIAL PAY ADJUSTMENT FOR THE SAN DIEGO, CA METROPOLITAN STATISTICAL AREA

[Effective January 1993]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,855	$13,284	$13,711	$14,137	$14,566	$14,818	$15,238	$15,663	$15,683	$16,082
GS–2	14,453	14,797	15,277	15,683	15,858	16,324	16,791	17,257	17,724	18,190
GS–3	18,927	19,453	19,979	20,505	21,031	21,557	22,083	22,609	23,135	23,661
GS–4	21,243	21,832	22,422	23,012	23,601	24,191	24,781	25,370	25,960	26,550
GS–5	24,426	25,086	25,746	26,406	27,066	27,726	28,386	29,046	29,705	30,365
GS–6	25,756	26,491	27,227	27,962	28,698	29,433	30,169	30,904	31,640	32,375
GS–7	27,805	28,622	29,440	30,257	31,075	31,892	32,710	33,528	34,345	35,163
GS–8	28,984	29,890	30,796	31,702	32,608	33,515	34,421	35,327	36,233	37,139
GS–9	31,012	32,012	33,012	34,012	36,013	36,013	37,013	38,013	39,013	40,013
GS–10	34,153	35,254	36,356	37,458	38,559	39,661	40,762	41,864	42,966	44,067

SALARY TABLE NO. 94–SD (LEO)— RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 8 PERCENT LEO SPECIAL PAY ADJUSTMENT FOR THE SAN DIEGO, CA METROPOLITAN STATISTICAL AREA—Continued

[Effective January 1993]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–11	36,313	37,524	38,734	39,945	41,156	42,366	43,577	44,788	45,998	47,209
GS–12	43,522	44,972	46,423	47,873	49,324	50,774	52,224	53,675	55,125	56,576
GS–13	51,754	53,478	55,203	56,928	58,653	60,377	62,102	63,827	65,552	67,276
GS–14	61,157	63,196	65,235	67,274	69,313	71,352	73,391	75,430	77,469	79,509
GS–15	71,938	74,335	76,733	79,131	81,528	83,926	86,323	88,721	91,119	93,516

Note: Special law enforcement adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–SF (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 16 PERCENT LOCALITY PAY ADJUSTMENT FOR THE SAN FRANCISCO-OAKLAND-SAN JOSE, CA CMSA

[Effective January 1993]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$13,807	$14,268	$14,726	$15,184	$15,645	$15,915	$16,366	$16,823	$16,844	$17,274
GS–2	15,523	15,893	16,408	16,844	17,032	17,533	18,035	18,536	19,037	19,538
GS–3	20,329	20,894	21,459	22,024	22,589	23,154	23,719	24,283	24,848	25,413
GS–4	22,816	23,449	24,083	24,716	25,349	25,983	26,616	27,250	27,883	28,516
GS–5	26,236	26,944	27,653	28,362	29,071	29,780	30,488	31,197	31,906	32,615
GS–6	27,664	28,454	29,244	30,034	30,824	31,613	32,403	33,193	33,983	34,773
GS–7	29,864	30,742	31,620	32,499	33,377	34,255	35,133	36,011	36,889	37,767
GS–8	31,131	32,104	33,077	34,051	35,024	35,997	36,970	37,944	38,917	39,890
GS–9	33,309	34,384	35,458	36,532	37,606	38,680	39,754	40,829	41,903	42,977
GS–10	36,683	37,866	39,049	40,232	41,415	42,599	43,782	44,965	46,148	47,331
GS–11	39,003	40,303	41,603	42,904	44,204	45,504	46,805	48,105	49,406	50,706
GS–12	46,746	48,304	49,861	51,419	52,977	54,535	56,093	57,651	59,209	60,767
GS–13	55,587	57,440	59,292	61,145	62,997	64,850	66,702	68,555	70,407	72,260
GS–14	65,687	67,877	70,067	72,258	74,448	76,638	78,828	81,018	83,208	85,398
GS–15	77,266	79,842	82,417	84,992	87,567	90,142	92,718	95,293	97,868	100,443

Note: Special law enforcement adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–SEA (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.92 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF SEATTLE-TACOMA-BREMERTON, WA

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,370	$12,782	$13,193	$13,603	$14,016	$14,258	$14,662	$15,072	$15,090	$15,475
GS–2	13,907	14,238	14,699	15,090	15,259	15,708	16,156	16,605	17,054	17,503
GS–3	18,212	18,718	19,224	19,730	20,236	20,742	21,249	21,755	22,261	22,767
GS–4	20,440	21,007	21,575	22,142	22,710	23,277	23,844	24,412	24,979	25,547
GS–5	23,504	24,139	24,773	25,408	26,043	26,678	27,313	27,948	28,583	29,218
GS–6	24,783	25,491	26,198	26,906	27,614	28,321	29,029	29,737	30,444	31,152
GS–7	26,754	27,541	28,328	29,114	29,901	30,688	31,474	32,261	33,048	33,834
GS–8	27,889	28,761	29,633	30,505	31,377	32,248	33,120	33,992	34,864	35,736
GS–9	29,841	30,803	31,765	32,728	33,690	34,652	35,614	36,577	37,539	38,501
GS–10	32,863	33,923	34,983	36,043	37,103	38,163	39,223	40,283	41,342	42,402
GS–11	34,941	36,106	37,271	38,436	39,601	40,766	41,931	43,096	44,261	45,426
GS–12	41,878	43,273	44,669	46,065	47,460	48,856	50,252	51,647	53,043	54,438
GS–13	49,798	51,458	53,118	54,777	56,437	58,096	59,756	61,416	63,075	64,735
GS–14	58,847	60,809	62,771	64,733	66,695	68,657	70,619	72,581	74,543	76,505
GS–15	69,220	71,527	73,834	76,141	78,448	80,755	83,062	85,369	87,676	89,983

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–DCB (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 4.23 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF WASHINGTON-BALTIMORE, DC–MD–VA–WV (INCLUDING ST. MARY'S COUNTY, MD)

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,406	$12,820	$13,232	$13,644	$14,058	$14,300	$14,706	$15,116	$15,135	$15,521
GS–2	13,948	14,281	14,743	15,135	15,304	15,754	16,205	16,655	17,105	17,555
GS–3	18,266	18,774	19,282	19,789	20,297	20,804	21,312	21,820	22,327	22,835
GS–4	20,501	21,070	21,639	22,208	22,777	23,346	23,916	24,485	25,054	25,623
GS–5	23,574	24,211	24,847	25,484	26,121	26,758	27,395	28,032	28,668	29,305
GS–6	24,857	25,567	26,276	26,986	27,696	28,406	29,116	29,825	30,535	31,245
GS–7	26,834	27,623	28,412	29,201	29,990	30,779	31,568	32,357	33,146	33,935
GS–8	27,972	28,847	29,721	30,596	31,470	32,345	33,219	34,094	34,968	35,843
GS–9	29,930	30,895	31,860	32,825	33,790	34,755	35,721	36,686	37,651	38,616
GS–10	32,961	34,024	35,087	36,150	37,213	38,276	39,340	40,403	41,466	42,529
GS–11	35,045	36,214	37,382	38,551	39,719	40,887	42,056	43,224	44,393	45,561
GS–12	42,003	43,402	44,802	46,202	47,602	49,002	50,401	51,801	53,201	54,601
GS–13	49,947	51,612	53,276	54,941	56,605	58,270	59,934	61,599	63,263	64,928
GS–14	59,022	60,990	62,958	64,926	66,894	68,862	70,829	72,797	74,765	76,733
GS–15	69,427	71,740	74,054	76,368	78,682	80,996	83,310	85,624	87,938	90,252

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

SALARY TABLE NO. 94–RUS (LEO)—RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S), INCLUDING SPECIAL SALARY RATES AT GS–3 THROUGH GS–10 AND INCORPORATING THE 3.09 PERCENT LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF REST OF U.S.

[Effective January 1994]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,271	$12,680	$13,087	$13,494	$13,904	$14,144	$14,545	$14,951	$14,970	$15,351
GS–2	13,796	14,124	14,582	14,970	15,137	15,582	16,027	16,473	16,918	17,363
GS–3	18,067	18,569	19,071	19,573	20,075	20,577	21,079	21,581	22,083	22,585
GS–4	20,277	20,840	21,403	21,965	22,528	23,091	23,654	24,217	24,780	25,343
GS–5	23,316	23,946	24,576	25,206	25,835	26,465	27,095	27,725	28,355	28,985
GS–6	24,585	25,287	25,989	26,691	27,393	28,095	28,797	29,499	30,201	30,903
GS–7	26,541	27,321	28,101	28,882	29,662	30,442	31,223	32,003	32,784	33,564
GS–8	27,666	28,531	29,396	30,261	31,126	31,991	32,856	33,721	34,586	35,451
GS–9	29,602	30,557	31,512	32,466	33,421	34,375	35,330	36,285	37,239	38,194
GS–10	32,600	33,652	34,703	35,755	36,806	37,858	38,909	39,961	41,012	42,064
GS–11	34,662	35,818	36,973	38,129	39,285	40,440	41,596	42,751	43,907	45,063
GS–12	41,543	42,928	44,312	45,697	47,081	48,466	49,850	51,235	52,619	54,004
GS–13	49,401	51,047	52,693	54,340	55,986	57,632	59,279	60,925	62,572	64,218
GS–14	58,377	60,323	62,269	64,216	66,162	68,108	70,055	72,001	73,947	75,894
GS–15	68,667	70,956	73,244	75,533	77,822	80,110	82,399	84,687	86,976	89,265

Note: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Law Enforcement Officers" cover sheet.

1994 Salary Table for Interim Geographic Adjustments—Salary Table No. 94–IGA

January 1994

The adjusted rates of pay in Salary Table 94–IGA were authorized under section 302 of the Federal Employees Pay Comparability Act of 1990 and Executive Order 12826 of December 30, 1992. They reflect an adjustment of 8 percent to all rates of basic pay within the General Schedule. Regulations on administering interim geographic adjustments are found at 5 CFR part 531, subpart A.

The adjusted rates of pay in Salary Table 94–IGA are applicable only to General Schedule employees in the following Consolidated Metropolitan Statistical Areas: New York-Northern New Jersey-Long Island, NY–NJ–CT–PA; San Francisco-Oakland-San Jose, CA; and Los Angeles-Riverside-Orange County, CA. These adjusted rates are considered basic pay for retirement, life insurance, premium pay, and severance pay purposes and for advances in pay. They are also used to compute workers' compensation payments and lump-sum payments for accrued and accumulated annual leave. They are *NOT* considered basic pay for any other purpose.

SALARY TABLE NO. 94–IGA—INCLUDING 8 PERCENT INTERIM GEOGRAPHIC ADJUSTMENTS

[Effective January 1993]

	Annual rates by grade and step									
	1	2	3	4	5	6	7	8	9	10
GS–1	$12,855	$13,284	$13,711	$14,137	$14,566	$14,818	$15,238	$15,663	$15,683	$16,082
GS–2	14,453	14,797	15,277	15,683	15,858	16,324	16,791	17,257	17,724	18,190
GS–3	15,771	16,297	16,823	17,349	17,875	18,401	18,927	19,453	19,979	20,505
GS–4	17,704	18,294	18,884	19,473	20,063	20,653	21,243	21,832	22,422	23,012
GS–5	19,807	20,467	21,127	21,787	22,447	23,107	23,766	24,426	25,086	25,746
GS–6	22,078	22,814	23,549	24,285	25,020	25,756	26,491	27,227	27,962	28,698
GS–7	24,534	25,352	26,169	26,987	27,805	28,622	29,440	30,257	31,075	31,892
GS–8	27,172	28,078	28,984	29,890	30,796	31,702	32,608	33,515	34,421	35,327
GS–9	30,102	31,012	32,012	33,012	34,012	35,013	36,013	37,013	38,013	39,013
GS–10	33,051	34,153	35,254	36,356	37,458	38,559	39,661	40,762	41,864	42,966
GS–11	36,313	37,524	38,734	39,945	41,156	42,366	43,577	44,788	45,998	47,209
GS–12	43,522	44,972	46,423	47,873	49,324	50,774	52,224	53,675	55,125	56,576
GS–13	51,754	53,478	55,203	56,928	58,653	60,377	62,102	63,827	65,552	67,276
GS–14	61,157	63,196	65,235	67,274	69,313	71,352	73,391	75,430	77,469	79,509
GS–15	71,938	74,335	76,733	79,131	81,528	83,926	86,323	88,721	91,119	93,516

Note: The adjusted rates of pay above apply only to General Schedule employees in the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA, San Francisco-Oakland-San Jose, CA CMSA, and Los Angeles-Riverside-Orange County, CA CMSA. Law enforcement officers are entitled to higher rates of pay under salary tables 94–NY (LEO), 94–SF (LEO), and 94–LA (LEO 1). The adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Table for Interim Geographic Adjustments" cover sheet.

1994 Salary Tables for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals

January 1994

The scheduled rates of pay for members of the Senior Executive Service, employees in senior-level and scientific or professional positions, administrative law judges, and members of Boards of Contract Appeals were authorized under Executive Order 12826 of December 30, 1992. Public Law 103–123 canceled the general pay adjustment for the General Schedule for 1994, which resulted in no adjustment in the Executive Schedule for 1994. Therefore, there is no statutory basis for adjustments in scheduled rates of pay in 1994 for these positions.

Under 5 U.S.C. 5304(h) and Executive Order 12883 of November 29, 1993, the President's Pay Agent has extended locality-based comparability payments to all members of the Senior Executive Service, employees in senior-level and scientific or professional positions, administrative law judges, and members of Boards of Contract Appeals. The locality rates of pay for affected individuals are shown on salary tables 94–ES (LOC), 94–SL/ST (LOC), 94–ALJ (LOC), and 94–BCA (LOC). These rates of pay are computed based on the scheduled rates of pay for these positions and reflect the locality pay percentages authorized by the President on December 1, 1993. Salary tables 94–ES (LEO) and 94–SL/ST (LEO) show the special law enforcement adjusted rates of pay for members of the Senior Executive Service and employees in senior-level and scientific or professional positions whose official duty stations are located in five special pay adjustment areas. These rates of pay were authorized by section 404 of the Federal Employees Pay Comparability Act of 1990 and became effective in January 1993.

The locality rates of pay and the special law enforcement adjusted rates of pay are considered basic pay for retirement, life insurance, premium pay, and severance pay purposes and for advances in pay. They are also used to compute workers' compensation payments and lump-sum payments for accrued and accumulated annual leave. They are *NOT* considered basic pay for any other purpose.

Rates of Pay for Members of The Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals

Effective January 1993

SALARY TABLE NO. 94–ES.—RATES OF PAY FOR MEMBERS OF THE SENIOR EXECUTIVE SERVICE (SES)

	Annual Rate
ES–1	$92,900
ES–2	97,400
ES–3	101,800
ES–4	107,300
ES–5	111,800
ES–6	115,700

SALARY TABLE NO. 94–SL/ST.—RATES OF PAY FOR EMPLOYEES IN SENIOR-LEVEL (SL) AND SCIENTIFIC OR PROFESSIONAL (ST) POSITIONS

	Annual rate
Minimum	$79,931
Maximum	115,700

SALARY TABLE NO. 94–ALJ.—RATES OF PAY FOR ADMINISTRATIVE LAW JUDGE (ALJ) POSITIONS

	Annual rate
AL–3/A	$75,205
AL–3/B	80,990
AL–3/C	86,775
AL–3/D	92,560
AL–3/E	98,345
AL–3/F	104,130
AL–2	*109,915
AL–1	115,700

SALARY TABLE NO. 94–BCA.—RATES OF PAY FOR MEMBERS OF BOARDS OF CONTRACT APPEALS (BCA)

	Annual rate
Chairman	$115,700
Vice Chairman	112,229
Other Members	108,758

LOCALITY RATES OF PAY FOR MEMBERS OF THE SENIOR EXECUTIVE SERVICE AND EMPLOYEES IN SENIOR-LEVEL AND SCIENTIFIC OR PROFESSIONAL POSITIONS

[Effective January 1994]

Locality pay area	Salary Table No. 94–ES (LOC)—Senior Executive Service (SES)						Salary table No. 94–SL/ST (LOC)—Senior-level (SL) and scientific or professional (ST) positions	
	ES–1	ES–2	ES–3	ES–4	ES–5	ES–6	Minimum	Maximum
Atlanta, GA	$96,486	$101,160	$105,729	$111,442	$116,115	$120,166	$83,016	$120,166
Boston-Worcester-Lawrence, MA–NH–ME–CT	97,982	102,728	107,368	113,169	117,915	122,029	84,303	122,029
Chicago-Gary-Kenosha, IL–IN–WI	97,861	102,601	107,236	113,030	117,770	121,878	84,199	121,878
Cincinnati-Hamilton, OH–KY–IN	96,820	101,510	106,096	111,828	116,518	120,583	83,304	120,583
Cleveland-Akron, OH	96,003	100,653	105,200	110,884	115,534	119,564	82,601	119,564
Dallas-Fort Worth, TX	96,811	101,501	106,086	111,817	116,507	120,571	83,296	120,571
Dayton-Springfield, OH	96,402	101,072	105,638	111,345	116,015	120,062	82,944	120,062
Denver-Boulder-Greeley, CO	97,118	101,822	106,422	112,171	116,876	120,953	83,560	120,953
Detroit-Ann Arbor-Flint, MI	97,396	102,114	106,727	112,493	117,211	121,300	83,800	121,300
Houston-Galveston-Brazoria, TX	98,957	103,750	108,437	114,296	119,089	*123,100	85,143	*123,100
Huntsville, AL	96,709	101,393	105,974	111,699	116,384	120,444	83,208	120,444
Indianapolis, IN	96,319	100,984	105,546	111,249	115,914	119,958	82,872	119,958
Kansas City, MO–KS	95,966	100,614	105,159	110,841	115,489	119,518	82,569	119,518
Los Angeles-Riverside-Orange County, CA	98,186	102,942	107,592	113,405	118,161	122,283	84,479	122,283
Memphis, TN–AR–MS	95,771	100,410	104,946	110,616	115,255	119,275	82,401	119,275
New York-N. New Jersey-Long Island, NY–NJ–CT–PA	98,260	103,020	107,674	113,491	118,251	122,376	84,543	122,376
Norfolk-Virginia Beach-Newport News, VA–NC	95,947	100,595	105,139	110,819	115,467	119,495	82,553	119,495
Oklahoma City, OK	96,003	100,653	105,200	110,884	115,534	119,564	82,601	119,564
Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD	97,508	102,231	106,849	112,622	117,345	121,439	83,896	121,439
Sacramento-Yolo, CA	96,328	100,994	105,556	111,259	115,925	119,969	82,880	119,969
St. Louis, MO–IL	95,771	100,410	104,946	110,616	115,255	119,275	82,401	119,275
Salt Lake City-Ogden, UT	95,771	100,410	104,946	110,616	115,255	119,275	82,401	119,275
San Antonio, TX	95,771	100,410	104,946	110,616	115,255	119,275	82,401	119,275
San Diego, CA	96,505	101,179	105,750	111,463	116,138	120,189	83,032	120,189
San Francisco-Oakland-San Jose, CA	98,641	103,419	108,091	113,931	118,709	122,850	84,871	122,850
Seattle-Tacoma-Bremerton, WA	96,542	101,218	105,791	111,506	116,183	120,235	83,064	120,235

LOCALITY RATES OF PAY FOR MEMBERS OF THE SENIOR EXECUTIVE SERVICE AND EMPLOYEES IN SENIOR-LEVEL AND SCIENTIFIC OR PROFESSIONAL POSITIONS—Continued

[Effective January 1994]

Locality pay area	Salary Table No. 94–ES (LOC)—Senior Executive Service (SES)						Salary table No. 94–SL/ST (LOC)—Senior-level (SL) and scientific or professional (ST) positions	
	ES–1	ES–2	ES–3	ES–4	ES–5	ES–6	Minimum	Maximum
Washington-Baltimore, DC–MD–VA–WV	96,830	101,520	106,106	111,839	116,529	120,594	83,312	120,594
Rest of U.S	95,771	100,410	104,946	110,616	115,255	119,275	82,401	119,275

[1] Rate limited to the rate for level III of the Executive Schedule (5 U.S.C. 5304(g)(2)).

NOTE: Law enforcement officers are entitled to the rates on salary tables 94–ES (LEO) or 94–SL/ST (LEO), as appropriate. Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals" cover sheet.

LOCALITY RATES OF PAY FOR ADMINISTRATIVE LAW JUDGES AND MEMBERS OF BOARDS OF CONTRACT APPEALS

[Effective January 1994]

Locality pay area	Salary table No. 94–ALJ (LOC)—Administrative Law Judges								Salary table No. 94–BCA (LOC)—Members of Boards of Contract Appeals (BCA)		
	AL–3/A	AL–3/B	AL–3/C	AL–3/D	AL–3/E	AL–3/F	AL–2	AL–1	Chairman	Vice chairman	Other members
Atlanta, GA	$78,108	$84,116	$90,125	$96,133	$102,141	$108,149	$114,158	$120,166	$120,166	$116,561	$112,956
Boston-Worcester-Lawrence, MA–NH–ME–CT	79,319	85,420	91,522	97,623	103,724	109,826	115,927	122,029	122,029	118,368	114,707
Chicago-Gary-Kenosha, IL–IN–WI	79,221	83,315	91,409	97,503	103,597	109,691	115,784	121,878	121,878	118,222	114,566
Cincinnati-Hamilton, OH–KY–IN	78,379	84,408	90,437	96,466	102,495	108,524	114,553	120,583	120,583	116,965	113,348
Cleveland-Akron, OH	77,717	83,695	89,673	95,652	101,630	107,608	113,586	119,564	119,564	115,977	112,391
Dallas-Fort Worth, TX	78,371	84,400	90,428	96,457	102,485	108,514	114,542	120,571	120,571	116,954	113,337
Dayton-Springfield, OH	78,040	84,043	90,046	96,050	102,053	108,056	114,059	120,062	120,062	116,460	112,858
Denver-Boulder-Greeley, CO	78,619	84,667	90,715	96,762	102,810	108,858	114,905	120,953	120,953	117,324	113,696
Detroit-Ann Arbor-Flint, MI	78,845	84,910	90,975	97,040	103,105	109,170	115,235	121,300	121,300	117,661	114,022
Houston-Galveston-Brazoria, TX	80,108	86,271	92,433	98,595	104,757	110,919	117,081	[1]123,100	[1]123,100	119,546	115,849
Huntsville, AL	78,288	84,311	90,333	96,355	102,377	108,399	114,422	120,444	120,444	116,830	113,217
Indianapolis, IN	77,973	83,970	89,968	95,966	101,964	107,962	113,960	119,958	119,958	116,359	112,760
Kansas City, MO–KS	77,687	83,663	89,639	95,614	101,590	107,566	113,542	119,518	119,518	115,933	112,347
Los Angeles-Riverside-Orange County, CA	79,484	85,598	91,712	97,827	103,941	110,055	116,169	122,283	122,283	118,615	114,946
Memphis, TN–AR–MS	77,529	83,493	89,456	95,420	101,384	107,348	113,311	119,275	119,275	115,697	112,119
New York-N. New Jersey-Long Island, NY–NJ–CT–PA	79,544	85,663	91,782	97,901	104,020	110,138	116,257	122,376	122,376	118,705	115,033
Norfolk-Virginia Beach-Newport News, VA–NC	77,672	83,646	89,621	95,596	101,571	107,545	113,520	119,495	119,495	115,910	112,325
Oklahoma City, OK	77,717	83,695	89,673	95,652	101,630	107,608	113,586	119,564	119,564	115,977	112,391
Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD	78,935	85,007	91,079	97,151	103,223	109,295	115,367	121,439	121,439	117,796	114,152
Sacramento-Yolo, CA	77,980	83,979	89,977	95,975	101,974	107,972	113,971	119,969	119,969	116,370	112,771
St. Louis, MO–IL	77,529	83,493	89,456	95,420	101,384	107,384	113,311	119,275	119,275	115,697	112,119
Salt Lake City-Ogden, UT	77,529	83,493	89,456	95,420	101,384	107,384	113,311	119,275	119,275	115,697	112,119
San Antonio, TX	77,529	83,493	89,456	95,420	101,384	107,384	113,311	119,275	119,275	115,697	112,119
San Diego, CA	78,123	84,132	90,142	96,151	102,161	108,170	114,180	120,189	120,189	116,583	112,978
San Francisco-Oakland-San Jose, CA	79,853	85,995	92,138	98,280	104,423	110,565	116,708	122,850	122,850	119,165	115,479
Seattle-Tacoma-Bremerton, WA	78,153	84,165	90,177	96,188	102,200	108,212	114,224	120,235	120,235	116,628	113,021
Washington-Baltimore, DC–MD–VA–WV	78,386	84,416	90,446	96,475	102,505	108,535	114,564	120,594	120,594	116,976	113,358
Rest of U.S.	77,529	83,493	89,456	95,420	101,384	107,348	113,311	119,275	119,275	115,697	112,119

[1] Rate limited to the rate for level III of the Executive Schedule (5 U.S.C. 5304(g)(2)).

NOTE: Locality rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals" cover sheet.

SPECIAL LAW ENFORCEMENT ADJUSTED RATES OF PAY FOR MEMBERS OF THE SENIOR EXECUTIVE SERVICE AND EMPLOYEES IN SENIOR-LEVEL AND SCIENTIFIC OR PROFESSIONAL POSITIONS

[Effective January 1994]

Special pay adjustment area	Salary table No. 94–ES (LEO)—Senior Executive Service (SES)						Salary table No. 94–SL/ST (LEO)—Senior-Level (SL) and Scientific or Professional (ST) Positions	
	ES–1	ES–2	ES–3	ES–4	ES–5	ES–6 Salary	Minimum	Maximum
Boston-Worcester-Lawrence, MA–NH–ME–CT	$107,764	$112,984	$118,088	[1] $123,100	[1] $123,100	[1] $123,100	$92,720	[1] $123,100
Los Angeles-Riverside-Orange County, CA [2]	107,764	112,984	118,088	[1] 123,100	[1] 123,100	[1] 123,100	92,720	[1] 123,100
New York-N. New Jersey-Long Island, NY–NJ–CT–PA	107,764	112,984	118,088	[1] 123,100	[1] 123,100	[1] 123,100	92,720	[1] 123,100
San Diego, CA	100,332	105,192	109,944	115,884	120,744	[1] 123,100	86,325	[1] 123,100
San Francisco-Oakland-San Jose, CA	107,764	112,984	118,088	[1] 123,100	[1] 123,100	[1] 123,100	92,720	[1] 123,100

[1] Rate limited to the rate for level III of the Executive Schedule (5 U.S.C. 5304(g)(2)).

[2] Does not include Santa Barbara County or that portion of Edwards Air Force Base outside the Los Angeles-Riverside-Orange County, CA CMSA.

NOTE: Special law enforcement adjusted rates of pay are considered basic pay only for certain purposes—see "1994 Salary Tables for Members of the Senior Executive Service, Employees in Senior-Level and Scientific or Professional Positions, Administrative Law Judges, and Members of Boards of Contract Appeals" cover sheet.

1994 Salary Table for The Executive Schedule

January 1994

The scheduled rates of pay for the Executive Schedule were authorized under 5 U.S.C. 5318 and Executive Order 12826 of December 30, 1992. Public Law 103–123 canceled the general pay adjustment for the General Schedule for 1994, which resulted in no adjustment in the Executive Schedule for 1994.

Rates of Pay for the Executive Schedule

Effective January 1993

SALARY TABLE NO. 94–EX.—EXECUTIVE SCHEDULE (EX)

	Annual rate
Level I	$148,400
Level II	133,600
Level III	123,100
Level IV	115,700
Level V	108,200

Definitions of Locality Pay Areas

The regulation defining the locality pay areas (5 CFR § 531.603) was issued by the Office of Personnel Management under the authority in 5 U.S.C. 5304(i). With two exceptions, the geographic boundaries of the pay localities for the first locality payments coincide with the boundaries of the 27 Metropolitan Statistical Areas (MSA's) and Consolidated Metropolitan Statistical Areas (CMSA's) within which the Bureau of Labor Statistics conducted salary surveys for locality pay purposes, plus 1 additional area composed of the "Rest of the United States." MSA's and CMSA's are defined by the Office of Management and Budget in OMB Bulletin No. 93–17, June 30, 1993.

The two exceptions are the Los Angeles-Riverside-Orange County, CA, and the Washington-Baltimore, DC–MD–VA–WV, locality pay areas. These two areas also include certain areas outside the corresponding CMSA's.

The definitions of the locality pay areas follow. Unless otherwise noted, all of the components listed below are counties. The geographic codes are maintained by the General Services Administration, which periodically publishes them in *Worldwide Geographic Location Codes*. The geographic codes listed for the majority of the pay areas consist of a 2-digit State and a 3-digit county identifier. When necessary, city codes were added to the geographic code. These areas are identified by a 2-digit State, a 4-digit city, and a 3-digit county code. The District of Columbia is identified by its 2-digit State code only.

In parts of the Boston and New York pay areas where nine-digit codes are used, this list covers all locations within the boundaries of the pay area that are listed in *Worldwide Geographic Location Codes*. Some minor civil divisions that are part of the OMB definition of the CMSA do not appear here because they have no geographic code. In some instances, there are multiple locations within a single minor civil division that have a geographic code. Each is listed here separately.

Atlanta, GA

13–013 Barrow
13–015 Bartow
13–045 Carroll
13–057 Cherokee
13–063 Clayton
13–067 Cobb
13–077 Coweta
13–089 Dekalb
13–097 Douglas
13–113 Fayette
13–117 Forsyth
13–121 Fulton
13–135 Gwinnett
13–151 Henry
13–217 Newton
13–223 Paulding
13–227 Pickens
13–247 Rockdale
13–255 Spalding
13–297 Walton

Boston-Worcester-Lawrence, MA–NH–ME–CT

Massachusetts

25–009 all of Essex County
25–017 all of Middlesex County
25–021 all of Norfolk County
25–023 all of Plymouth County
25–025 all of Suffolk County

The following parts of Bristol County:

250007005 Acushnet
250039005 Assonent
250096005 Berkley
250188005 Chartley
250251005 Dartmouth

250254005 Dighton
250281005 East Freetown
250299005 Easton
250315005 Fairhaven
250385005 Freetown
250670005 Mansfield
250850005 New Bedford
250911005 North Dartmouth
250912005 North Dighton
250913005 North Easton
250924005 Norton
251064005 Raynham
251062005 Raynham Center
251135005 Segreganset
251219005 South Dartmouth
251225005 South Easton
251280005 Taunton

The following part of Hampden County:
250489013 Holland

The following parts of Worcester County:
250032027 Ashburnham
250055027 Auburn
250079027 Barre
250080027 Barre Plains
250098027 Berlin
250110027 Blackstone
250117027 Bolton
250123027 Boylston
250150027 Brookfield
250185027 Charlton
250186027 Charlton City
250189027 Charlton Depot
250220027 Clinton
250252027 Douglas
250263027 Dudley
250272027 East Brookfield
250280027 East Douglas
250902027 Northbridge
250910027 N. Brookfield
250916027 N. Grafton
250918027 N. Oxford
250927027 N. Uxbridge
250944027 Oakdale
250943027 Oakham
250980027 Oxford
250999027 Paxton
251045027 Princeton
251080027 Rochdale
251100027 Rutland
251172027 Shrewsbury
251200027 South Barre
251203027 South Berlin
251204027 Southborough
251210027 Southbridge
250297027 East Princeton
250332027 Fayville
250350027 Fitchburg
250390027 Gardner
250436027 Grafton
250467027 Harvard
250480027 Holden
250510027 Hopedale
250555027 Jefferson
250565027 Lancaster
250585027 Leicester
250610027 Leominster
250619027 Linwood
250640027 Lunenburg
250664027 Manchaug
250745027 Mendon
250780027 Milford
250785027 Millbury
250820027 Millville
250834027 Morningdale
250900027 Northborough
251228027 South Grafton
251240027 South Lancaster
251260027 Spencer
251273027 Sterling
251266027 Sterling Junction
251271027 Still River
251278027 Sturbridge
251269027 Sutton
251283027 Templeton
251310027 Upton
251320027 Uxbridge
251376027 Waterville
251380027 Webster
251390027 Westborough
251395027 West Boylston
251410027 West Brookfield
251439027 Westminster
251455027 West Upton
251470027 Whitinsville
251500027 Winchendon
251520027 Worcester

New Hampshire

The following parts of Hillsborough County:
330011011 Amherst
330018011 Bedford
330031011 Brookline
330160011 Goffstown
330180011 Greenville
330234011 Hollis
330240011 Hudson
330299011 Litchfield
330310011 Manchester
330324001 Mason
330334011 Merrimack
330340011 Milford
330344011 Mont Vernon
330350011 Nashua
330357011 New Ipswich
330401011 Pelham
330434011 Reeds Ferry
330509011 Weare
330540011 Wilton

The following part of Merrimack County:
330236013 Hooksett

The following parts of Rockingham County:
330012015 Atkinson
330013015 Auburn
330025015 Brentwood
330032015 Candia
330045015 Chester
330087015 Danville
330085015 Derry
330105015 East Derry
330108015 East Hampstead
330112015 East Kingston
330123015 Epping
330130015 Exeter
330153015 Fremont
330176015 Greenland
330195015 Hampstead
330200015 Hampton
330199015 Hampton Beach
330201015 Hampton Falls
330252015 Kensington
330255015 Kingston
330305015 Londonderry
330355015 New Castle
330354015 Newfields
330356015 Newington
330370015 Newmarket
330381015 Newton
330382015 Newton Junction
330391015 North Hampton
330384015 North Salem
330417015 Plaistow
330430015 Portsmouth
330435015 Raymond
330445015 Rye
330447015 Rye Beach
330448015 Salem
330462015 Sandown
330466015 Seabrook
330474015 South Danville
330475015 South Hampton
330478015 Stratham
330533015 West Rye
330527015 Westville
330551015 Windham

The following parts of Strafford County:
330029017 Barrington
330090017 Dover
330100017 Durham
330140017 Farmington
330281017 Lee
330311017 Madbury
330342017 Milton
330345017 Milton Mills
330440017 Rochester
330443017 Rollinsford
330470017 Somersworth

Maine

The following parts of York County:
230450031 Berwick
231445031 Cape Neddick
232450031 Eliot
234250031 Kittery
234300031 Kitterypoint
237450031 South Berwick
239800031 York
239900031 York Beach
239950031 York Harbor

Connecticut

The following parts of Windham County:
090231015 Fabyan
090259015 Grosvenordale
090373015 Mechanicsville
090500015 N. Grosvenordale
090603015 Quinebaug
090749015 Thompson

Chicago-Gary-Kenosha, IL–IN–WI

Illinois

17–031 Cook
17–037 DeKalb
17–043 DuPage
17–063 Grundy
17–089 Kane
17–091 Kankakee
17–093 Kendall
17–097 Lake
17–111 McHenry
17–197 Will

Indiana

18–089 Lake
18–127 Porter

Wisconsin

55–059 Kenosha

Cincinnati-Hamilton, OH–KY–IN

Ohio

39–015 Brown
39–017 Butler
39–025 Clermont
39–061 Hamilton
39–165 Warren

Kentucky

21–015 Boone
21–037 Campbell
21–077 Gallatin
21–081 Grant
21–117 Kenton
21–191 Pendleton

Indiana

18–029 Dearborn
18–115 Ohio

Cleveland-Akron, OH

39–007 Ashtabula
30–035 Cuyahoga
39–055 Geauga
39–085 Lake
39–093 Lorain
39–103 Medina
39–133 Portage
39–153 Summit

Dallas-Fort Worth, TX

48–085 Collin
48–113 Dallas
48–121 Denton
48–139 Ellis
48–213 Henderson
48–221 Hood
48–231 Hunt
48–251 Johnson
48–257 Kaufman
48–367 Parker
48–397 Rockwall
48–439 Tarrant

Dayton-Springfield, OH

39–023 Clark
39–057 Greene
39–109 Miami
39–113 Montgomery

Denver-Boulder-Greeley, CO

08–001 Adams
08–005 Arapahoe
08–013 Boulder
08–031 Denver
08–035 Douglas
08–059 Jefferson
08–123 Weld

Detroit-Ann Arbor-Flint, MI

26–049 Genesee
26–087 Lapeer
26–091 Lenawee
26–093 Livingston
26–099 Macomb
26–115 Monroe
26–125 Oakland
26–147 St. Clair
26–161 Washtenaw
26–163 Wayne

Houston-Galveston-Brazoria, TX

48–039 Brazoria
48–071 Chambers
48–157 Fort Bend
48–167 Galveston
48–201 Harris
48–291 Liberty
48–339 Montgomery
49–473 Waller

Huntsville, AL

01–083 Limestone
01–089 Madison

Indianapolis, IN

18–011 Boone
18–057 Hamilton
18–059 Hancock
18–063 Hendricks
18–081 Johnson
18–095 Madison
18–097 Marion
18–109 Morgan
18–145 Shelby

Kansas City, MO–KS

Missouri

29–037 Cass
29–047 Clay
29–049 Clinton
29–095 Jackson
29–107 Lafayette
29–165 Platte
29–177 Ray

Kansas

20–091 Johnson
20–103 Leavenworth
20–121 Miami
20–209 Wyandotte

Los Angeles-Riverside-Orange County, CA

06–037 Los Angeles
06–059 Orange
06–065 Riverside
06–071 San Bernardino
06–083 Santa Barbara
06–011 Ventura
061077029 Edwards Air Force Base

Memphis, TN–AR–MS

Tennessee

47–047 Fayette
47–157 Shelby
47–167 Tipton

Arkansas

05–035 Crittenden

Mississippi

28–033 DeSoto

NewYork-Northern New Jersey-Long Island, NY–NJ–CT–PA

New York

36–005 Bronx
36–027 Dutchess
36–047 Kings
36–059 Nassau
36–061 New York
36–071 Orange
36–079 Putnam
36–081 Queens
36–085 Richmond
36–087 Rockland
36–103 Suffolk
36–119 Westchester

New Jersey

34–003 Bergen
34–013 Essex
34–017 Hudson
34–019 Hunterdon
34–021 Mercer
34–023 Middlesex
34–025 Monmouth
34–027 Morris
34–029 Ocean
34–031 Passaic
34–035 Somerset
34–037 Sussex
34–039 Union
34–041 Warren

Connecticut

09–001 all of Fairfield County
09–009 all of New Haven County

The following parts of Litchfield County:

090051005 Bethlehem
090083005 Bridgewater
090247005 Gaylordsville
090372005 Marble Dale
090450005 New Milford
090454005 New Preston
090535005 Oakville
090629005 Roxbury
090740005 Thomaston
090802005 Washington
090805005 Washington Depot
090817005 Watertown
090857005 Woodbury

The following parts of Middlesex County:

090130007 Clinton
00332007 Killingsworth

Pennsylvania

42–103 Pike

Norfolk-Virginia Beach-Newport News, VA–NC

Virginia

51–073 Gloucester
51–093 Isle of Wight
51–095 James City County
51–115 Mathews
51–199 York
51–550 Chesapeake city
51–650 Hampton city
51–700 Newport News city
51–710 Norfolk city
51–735 Poquoson city
51–740 Portsmouth city
51–800 Suffolk city
51–810 Virginia Beach city
51–830 Williamsburg city

North Carolina

37–053 Currituck

Oklahoma City, OK

40–017 Canadian
40–027 Cleveland
40–083 Logan
40–087 McClain
40–109 Oklahoma
40–125 Pottawatomie

Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD

Pennsylvania

42–017 Bucks
42–029 Chester
42–045 Delaware
42–091 Montgomery
42–101 Philadelphia

New Jersey

34–001 Atlantic
34–005 Burlington
34–005 Camden
34–009 Cape May
34–011 Cumberland
34–015 Gloucester
34–033 Salem

Delaware

10–003 New Castle

Maryland

24–015 Cecil

Sacramento-Yolo, CA

06–017 El Dorado
06–061 Placer
06–067 Sacramento
06–113 Yolo

St. Louis, MO-IL

Missouri

The following part of Crawford County:
297630055 Sullivan City
29–071 Franklin
29–099 Jefferson
29–113 Lincoln
29–183 St. Charles
29–189 St. Louis
29–219 Warren
29–510 St. Louis city

Illinois

17–027 Clinton
17–083 Jersey
17–119 Madison
17–133 Monroe
17–163 St. Clair

Salt Lake City-Ogden, UT

49–011 Davis
49–035 Salt Lake
49–057 Weber

San Antonio, TX

48–029 Bexar
48–091 Comal
48–187 Guadalupe
48–493 Wilson

San Diego, CA

06–073 San Diego

San Francisco-Oakland-San Jose, CA

06–001 Alameda
06–013 Contra Costa
06–041 Marin
06–055 Napa
06–075 San Francisco
06–081 San Mateo
06–085 Santa Clara
06–087 Santa Cruz
06–095 Solano
06–097 Sonoma

Seattle-Tacoma-Bremerton, WA

53–029 Island
53–033 King
53–035 Kitsap
53–053 Pierce
53–061 Snohomish
53–067 Thurston

Washington-Baltimore, DC-MD-VA-WV

11 District of Columbia

Maryland

24–003 Anne Arundel
24–005 Baltimore
24–009 Calvert
24–013 Carroll
24–017 Charles
24–021 Frederick
24–025 Harford
24–027 Howard
24–031 Montgomery
24–033 Prince George's
24–035 Queen Anne's
24–037 St. Mary's
24–043 Washington
24–510 Baltimore city

Virginia

51–013 Arlington
51–043 Clarke
51–047 Culpeper
51–059 Fairfax
51–061 Fauquier
51–099 King George
51–107 Loudoun
51–153 Prince William
51–177 Spotsylvania
51–179 Stafford
51–187 Warren
51–510 Alexandria city
51–600 Fairfax city
51–610 Falls Church city
51–630 Fredericksburg city
51–683 Manassas city
51–685 Manassas Park city

West Virginia

54–003 Berkeley
54–037 Jefferson

Rest of U.S.

Those portions of the 48 contiguous States and the District of Columbia not located within another locality pay area.

[FR Doc. 94–670 Filed 1–12–94, 8:45 am]
BILLING CODE 6325–01–M

federal register

Thursday
January 13, 1994

Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 23
Indian Child Welfare Act; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 23

RIN 1076–AC55

Indian Child Welfare Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing final Indian Child Welfare Act (ICWA) grant regulations in response to comments received during the Notice of Proposed Rulemaking (NPRM) comment period and in response to recommendations received from numerous Indian tribes, Indian organizations and other interested parties during a series of consultation sessions held during 1990–1992. Indian tribes collectively recommended the conversion of the current competitive grant award process to a noncompetitive funding mechanism for tribes, the stabilization of tribal ICWA programs through the provision of recurring base funding, and the continuation of a competitive award system for off-reservation Indian organization applicants.

EFFECTIVE DATE: February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Betty B. Tippeconnie, Division of Social Services, Bureau of Indian Affairs, Department of the Interior, telephone (202) 208–2721.

SUPPLEMENTARY INFORMATION: This final rule is published under authority delegated by the Secretary of the Interior (Secretary) to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8. This final rule, revising regulations which govern the ICWA grant process as codified at 25 CFR part 23, was preceded by the publication of the NPRM in the **Federal Register** on January 12, 1993 (Vol. 58, No. 7), with a 30-day public comment period.

Current regulations provide for the competitive award of ICWA grants to Indian tribes and off-reservation Indian organizations based on the BIA's review of applications. In the past, limited appropriations necessitated the competitive award process. Under this system, tribes were unable to develop long-range plans and programs due to the uncertainty of sustained resources. Moreover, administration of this program was costly and time consuming, because tribes needed to complete lengthy applications for ICWA grant funds which were then reviewed and considered by BIA.

In order for the BIA to convert to a noncompetitive grant award system for tribes, it was necessary to secure sufficient ICWA appropriations. In FY 1992, the BIA requested a substantial increase in appropriations for the ICWA grants program so that noncompetitive awards could be made to tribes. This was explained in the BIA's budget request and was approved by the Office of Management and Budget, creating a $16,786,000 program. The FY 1994 ICWA appropriations include $22,905,000 for Indian tribes and $1,735,000 for off-reservation Indian organizations. These increased ICWA funds and the revised regulations will fulfill the BIA's goal to convert to a noncompetitive award system for all federally recognized tribes, enabling them to access recurring base ICWA funds via the tribe/agency funding mechanism already in place. The revised regulations will require all applicants to develop multi-year comprehensive programs which will reduce the overall burden on the public and the Federal Government by reducing the amount of time, resources, and paperwork associated with implementing the current competitive grant application system and related grant administration and fiscal activities. Additionally, all program operation activities will be moved from the headquarters level to the lowest possible level of decisionmaking, and the appeals process will be streamlined substantially for all applicants at all levels of government. Thus, the revised regulations will be less burdensome and more cost-effective, and efficient.

Although these regulations convert ICWA grants to a noncompetitive system for federally recognized Indian tribes on reservations, the competitive award system will be retained for off-reservation Indian organizations. This is because there will not be sufficient ICWA grant funds available for noncompetitive awards to all eligible off-reservation Indian organization applicants.

Fifty-five individual comments and two documents containing consolidated recommendations and comments were received by February 11, 1993, the closing date of the comment period. The consolidated comments were the result of meetings facilitated by two BIA area offices. Each comment was carefully reviewed by a Division of Social Services work group, which adopted, rejected or developed a modified version of each recommendation for incorporation into the final rule. Several comments received after the close of the comment period were not considered.

A number of comments pertained to issues that cannot properly be addressed in regulations. These comments fell within one of the following categories:

(1) Matters outside the realm and purview of these regulations that may be addressed through other means, such as state non-compliance issues with respect to implementing applicable provisions of the Act, or special consideration to extend a tribe's service area so that it may serve tribal members residing in a major urban area;

(2) Proposals regarding distribution methodologies for ICWA grant funds, such as a distribution based upon where the majority of Indian populations are concentrated; and

(3) Requests for examples and how they relate to specific circumstances. Requests for such information and technical assistance on the application of specific regulations should be directed to appropriate agency or area office staff.

This final rule is the result of extensive consultation on this subject matter since 1990. The BIA is committed to tribal participation in fostering a true tribal-BIA partnership in addressing priority issues in Indian Country. We have communicated to the Indian communities in various ways that Indian child welfare services are of paramount concern and importance to the BIA. The BIA conducted a series of tribal consultation sessions prior to the publication of the NPRM revising the current ICWA regulations. The BIA believes that Indian tribes and Indian organizations have had ample opportunity for meaningful input into the development of both the proposed and final regulatory revisions, and options for the distribution of the ICWA grant funds. The following is a brief synopsis of these activities.

In February 1990, the Acting Deputy to the Assistant Secretary—Indian Affairs (Tribal Services) called upon each BIA area office (areas) to establish tribal technical work groups for the purpose of reviewing the existing ICWA grant process, identifying problem areas, and making recommendations for improvement. Additionally, each area was requested to develop a methodology for measuring the impact of ICWA programs. Working under a tight deadline, the areas convened work groups and submitted reports suggesting several ways to improve the capabilities of ICWA programs. In September 1990, the BIA issued an executive summary of the area reports which contained comments and recommendations received from tribes and Indian organizations. Essentially, the collective findings and recommendations of the

work groups addressed the competitive nature of the grant process and the impacts that unstable, insufficient funding levels have had on the continuity of programs.

The BIA's Division of Social Services then crafted proposed changes to 25 CFR part 23, incorporating recommendations contained in the executive summary, thereby revising the regulations governing the ICWA grant process. The BIA distributed these draft regulations to the areas for a second round of consultations in March 1991. Included on the consultation agenda were ICWA funding-related issues/concerns. Each of the twelve areas met the challenge and conducted field hearings and solicited comments on the proposed regulations. Subsequent to these area consultation sessions, all comments received from tribes and interested parties were considered and incorporated, to the extent feasible, into the NPRM.

A third consultation session facilitated by the BIA was held in Denver, Colorado, in November 1991, for the exclusive purpose of addressing the development of options for the distribution of the ICWA grant funds. At this meeting, the BIA made a commitment to continue tribal consultation on the proposed changes to the ICWA grant process. Based on recommendations received from tribes in Denver, the BIA developed nine proposed methods for the distribution of ICWA grant funds. Consistent with the BIA's government-to-government relationship with Indian tribes, the BIA, in December 1991, communicated directly with tribally-elected officials in conducting a preference survey to arrive at the most preferred option for distributing ICWA grant funds. Fiscal Year (FY) 1992 ICWA grant funds were distributed to eligible Indian tribes through a methodology reflective of a combination of three options most preferred by tribal leadership. Funds were distributed to 374 tribes and Alaska native villages.

In summary, the BIA has to date demonstrated its commitment to, and has facilitated the consultative process on behalf of, Indian tribes and other interested parties with respect to the ICWA regulatory revisions.

Although the final rule significantly differs in organization from the NPRM as published, the major components remain intact. Some sections have been rearranged to better delineate and identify under one subpart all the applicable sections on the grant application procedures. Some sections have been consolidated, condensed, or rephrased for purposes of clarity. After careful consideration of all comments and recommendations received, sections that were considered no longer necessary or applicable were deleted. Additionally, the ICWA grant process has been divided into two different processes: a newly-designated Subpart C pertains exclusively to Indian tribes and a newly designated Subpart D pertains exclusively to off-reservation Indian organization applicants pursuant to 25 U.S.C. 1932. In response to recommendations received, both processes also have been restructured so that ICWA grants will be processed by the appropriate BIA agency or area office. The move in this direction is consistent with BIA policy that program decisions be made by BIA line officials at the lowest level of decision-making.

Contingent upon annual congressional appropriations, the purposes of the final rule remain the same as announced in the NPRM, namely:

(1) To convert the competitive ICWA grant award process to a noncompetitive award system for eligible Indian tribes;

(2) To promote long-term planning;

(3) To stabilize and provide core funding for tribal ICWA programs, enabling them to develop, coordinate, and implement comprehensive Indian child and family service programs;

(4) To provide for off-reservation ICWA programs to continue to be awarded competitively; and

(5) To establish new requirements for internal evaluation processes for all grantees.

In all its consultation sessions on regulatory revisions to date, the BIA has made known publicly its intentions for implementing both the proposed noncompetitive ICWA grant award system for federally recognized Indian tribes and Alaska native villages, and the competitive award system for off-reservation Indian organization applicants. The following is background information on and the reasons why the BIA has determined it would develop and implement two separate grant processes.

(1) Public Law 95–608 statutorily treats federally recognized Indian tribes and off-reservation Indian organization applicants differently at 25 U.S.C. 1931 and 1932 respectively. 25 U.S.C. 1931 delineates for Indian tribes eight separate ICWA program activities, while 25 U.S.C. 1932 identifies four ICWA program activities for off-reservation Indian organizations. Moreover, under 25 U.S.C. 1931, tribes may use ICWA funds as non-Federal matching shares for programs administered under the Social Security Act. This provision is consistent with entities considered eligible, by other Federal programs, to apply for and administer Social Security Act programs, whereas off-reservation Indian organizations are not statutorily authorized to do so.

(2) The Federal government has a government-to-government relationship with the sovereign governments of federally recognized Indian tribes and Alaska native villages as contemplated by Public Law 95–608. Therefore, federal funds for which a tribe is eligible are distributed directly to the tribe by a Federal Finance System. Once the revised regulations are implemented, this funds distribution system will allow tribes quick access to program funds and will reduce the burden hours heretofore required for the execution and administration of grants. The Federal government does not, however, have a similar relationship with off-reservation Indian organizations incorporated under state law. As a result of these relationships, the BIA may develop and implement a noncompetitive grant award system for Indian tribes, while retaining a competitive system for off-reservation Indian organization applicants.

(3) The Congress has been informed of the BIA's intent to develop and implement two separate grant award systems, one for Indian tribes and another for off-reservation Indian organization applicants. Since FY 1991, the BIA has submitted budget justification documents informing the Congress of all actions contemplated with respect to the implementation of the new ICWA initiative and its attendant regulatory revisions.

(4) Beginning in FY 1993, the Congress earmarked a national allocation of ICWA funds to be awarded competitively to successful off-reservation Indian organization applicants. Likewise, Congress earmarked FY 1993 ICWA funds to be granted noncompetitively to tribal programs.

(5) Limited funds appropriated and earmarked for the off-reservation ICWA grant competition precludes the BIA from funding these organizations noncompetitively, because there would not be enough funds for all eligible off-reservation Indian organization applicants. Other concerns inherent in the noncompetitive funding of off-reservation Indian organization grantees include the fact that there is no fair manner in which the BIA may fund a select few of the many eligible organizations. Any preferential treatment given such a select group would be deemed discriminatory by those organizations not funded. Considering the limited funds available

for successful off-reservation Indian organization applicants, a competitive award process is the only alternative available to the BIA.

The decision to continue a competitive award system for off-reservation Indian organization applicants should not in any way be construed to mean that off-reservation ICWA programs are valued less than tribal programs. The BIA recognizes and acknowledges that off-reservation ICWA programs play an important advocacy role on behalf of many Indian families residing in urban settings in brokering services provided by urban agencies/services providers. Off-reservation ICWA programs oftentimes provide the key link between Indian tribes and their tribal members residing off-reservation who may be experiencing crisis situations, particularly those involving involuntary child custody proceedings in state courts.

During the November 1991 tribal consultation session conducted in Denver, Colorado, tribes requested that the BIA seek a legal opinion as to the applicability of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638), as amended, to tribal ICWA grant programs. Tribes recommended and supported the concept of converting the competitive ICWA grant award process to a noncompetitive award system for tribes under the authority of Public Law 93–638. Tribes also recommended that all provisions of Public Law 93–638 be made applicable to tribal ICWA programs once this conversion materializes. In particular, tribes sought entitlement to contract support costs for tribal ICWA programs and eligibility for indirect costs at the tribes' negotiated rates with the Office of the Inspector General (OIG). Ninety percent of tribal governments who submitted comments during the NPRM comment period reiterated their recommendations with respect to the provision of contract support funds for tribal ICWA programs.

In response to the BIA's request for a legal opinion on behalf of Indian tribes with respect to the specific issues stated above, the Department of the Interior's Solicitor for Indian Affairs determined that there is neither statutory authority nor Indian Self-Determination regulatory provisions which would permit Title II Indian Child Welfare Act grant programs to be awarded as contracts to tribes under the authority of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638), as amended.

Pursuant to Public Law 93–638, as amended, tribes are entitled to contract with the BIA to plan, conduct, and administer all or parts of any program which the BIA is authorized to administer for the benefit of Indians. However, grants made under the Indian Child Welfare Act are not such a program. The BIA can neither operate ICWA programs on behalf of Indian tribes nor can it assume the operation of such a program in the event a tribe no longer wishes to operate an ICWA program. Hence, ICWA grants are not contractible under the regulatory provisions which implement Public Law 93–638. However, the Solicitor concluded that there are no statutory or regulatory restrictions on the allocation of indirect costs to ICWA grants awarded to Indian tribes under section 201 of the Act (25 U.S.C. 1931) at the OIG-negotiated indirect cost rates.

Therefore, based upon the above Solicitor's opinion, BIA policy, and subject to the availability of contract support funds, ICWA contract support costs for tribes may be paid. However, there are no funds currently appropriated for ICWA indirect costs.

Changes Adopted Due to Comments Received

Comment. A commenter recommended that the purpose statement at § 23.1 be restated to reflect that these regulations govern the provision of funding for, and the administration of ICWA programs, rather than addressing the performance of the Federal government's responsibilities under the Act.

Response. The BIA agrees with the recommendation, and the purpose statement at § 23.1 incorporates this recommendation.

Comment. Commenters recommended that several new definitions be added because they were necessary, or that other definitions be clarified because they were unclear in meaning. Commenters also recommended deletion of entire definitions or portions thereof because they were perceived to be unnecessary, confusing, or irrelevant to the ICWA grant process. Two commenters recommended the deletion of any references to status offenses (such as truancy and incorrigibility) within the definition of *child custody proceeding* because such language is not contained in the Act.

Response. The BIA agrees with the rationales provided to add the following new definitions:

(1) *Bureau of Indian Affairs;* (2) *child custody proceeding,* to clarify that other tribal placements made in accordance with the Act are included, but that status offenses are excluded; (3) *grants officer,* to define the responsibilities of this BIA official; (4) *off-reservation ICWA program,* as distinguishable from a tribal government ICWA program; (5) *Title II of Pub. L. 95–608,* due to provisions therein that provide authority for ICWA grant programs; and (6) *tribal government,* which now better defines tribal applicants and is preferable to the definition of "on- and near-reservation programs," as formerly used in the NPRM.

The following definitions are being deleted for the reasons given:

(1) *Director, Office of Tribal Services* is no longer used in this rule; (2) *indirect costs;* (3) *indirect cost rate* because their applicability is discussed in 25 CFR part 276, Appendix A; (4) *near-reservation* because this term was confusing to those tribes who do not have designated near-reservation service areas (instead, grants formerly designated as "on- and near-reservation" are redesignated as tribal government ICWA grants); and (5) *unduplicated case count* is no longer used in this rule. A change in the definition of *Indian* is made to be consistent with the definition at 43 U.S.C. 1606. Additionally, clarifying language for purposes of eligibility for ICWA grants under 25 U.S.C. 1932 is being added to the definition of *Indian organization.* It is intended that this definition be solely applicable to off-reservation Indian organizations, not Indian organizations located within the confines of the geographical boundaries of Indian reservations.

Comment. Although several commenters agreed with the NPRM policy statement at § 23.3, emphasizing the provision of prevention and reunification services, other commenters recommended that the policy statement be consistent with the Congressional declaration of policy at 25 U.S.C. 1902 (Pub. L. 95–608), and that ICWA programs should be comprehensive in nature and approach.

Response. The BIA agrees with the above recommendations and has revised the policy statement to reflect these recommendations, with emphasis on the design, development and implementation of Indian child and family service programs to coordinate with, rather than to supplant, existing programs.

Comment. A commenter inquired as to notification responsibilities, under 25 U.S.C. 1912, of child custody proceedings in state courts when the location of the Indian parents, Indian custodians or the Indian child's tribe is known.

Response. The BIA agrees that current regulations are unclear as to notification responsibilities under 25 U.S.C. 1912 when the whereabouts of the Indian

parents, Indian custodians or child's tribe are known. Thus, § 23.11(a) now begins with a new paragraph which specifically delineates the responsibility of any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under state law to notify directly, and in a timely manner, the affected Indian parents, Indian custodians or the child's tribe of such state court proceeding. For purposes of efficacy and to avoid duplication of effort, included in this section is a new requirement to send copies of notices provided in accordance with this section to the Secretary and the appropriate Area Director. The Secretary has, heretofore, experienced such duplication of effort.

Comment. Additional tribal comments received on § 23.11 included exceptions to BIA area offices designated to process ICWA notices in behalf of said tribes as specified at § 23.11 (c)(1)–(12).

Response. All exceptions to § 23.11 (c)(1)–(12) are incorporated.

Comment. One commenter requested that more inclusive information be secured with respect to the notification requirements at § 23.11 (d)(1)–(3).

Response. Notification requirements identified at § 23.11 (d)(1)–(2) are rephrased to be more inclusive, concise, and clear regarding attempts to secure information on the Indian child's lineal ancestors.

Comment. A commenter requested clarification as to which agency pays for court-appointed counsel under section § 23.11 (e)(2).

Response. Language at § 23.11 (e)(2) is rephrased to be consistent with 25 U.S.C. 1912, which addresses the provision of court-appointed counsel when a state court determines indigency and payment for such counsel as authorized by state law. Additionally, language at § 23.11 (e)(4) is consistent with the new requirement at § 23.11 (a) that the moving party is responsible for providing to the Secretary and appropriate Area Director copies of ICWA notices sent to the affected parties pursuant to 25 U.S.C. 1912.

Comment. A commenter recommended that language at § 23.11 (e)(5) closely follow 25 U.S.C. 1911.

Response. The above recommendation is incorporated at § 23.11 (e)(5) to reflect language in the Act and to give clearer meaning to this section.

Comment. A commenter suggested that the confidentiality requirement at § 23.11 (d)(7) be applicable to all parties notified rather than just BIA officials.

Response. The BIA agrees that the confidentiality requirement is applicable to all Federal and tribal personnel involved in the handling of ICWA notices at all levels. This section is revised to reflect this understanding. The publication of confidential information related to ICWA notices in tribal newsletters is prohibited as well.

Comment. A commenter recommended that § 23.11(f), which establishes timeframes within which the BIA must notify the affected Indian parties and the child's tribe of child custody proceedings, be consistent with the 15-day requirement established by law.

Response. The BIA agrees, and the timeframe is changed from the 10 days indicated in the NPRM to 15 days as provided for by statute.

Comment. A commenter suggested that the BIA clarify to whom section § 23.11(g) applies.

Response. This section has been clarified to address participants in Indian child custody proceedings.

Comment. The Division of Social Services is including at § 23.12 the authority for this provision. A new change provides that the Secretary or his/her designee shall update and publish as necessary the names and addresses of tribal agents for service of ICWA notices. This change is made because the Division of Social Services published in the March 26, 1993, **Federal Register** (Vol. 58, No. 57) the most comprehensive listing ever of designated tribal agents for all federally recognized Indian tribes and Alaska native villages, and thus foresees the publication of updated information only as necessary in the future, rather than on an annual basis.

Comment. The Division of Social Services is adding the word "involuntary" to the title heading of § 23.13 and at paragraph (a) of this section to clarify that the provisions are applicable only to "involuntary child custody proceedings" as provided for in 25 U.S.C. 1912 and to be consistent with the title heading in Subpart B.

Comment. The Department of the Interior's Office of the Solicitor (Indian Affairs) and the Board of Indian Appeals (IBIA) recommended the incorporation of specific citations they provided with respect to decisions appealable to the IBIA under § 23.13 (c) and (f). The IBIA also recommended deletion of the words "Hearings and" from the title in Subpart F as there are no provisions for the conduct of hearings under this subpart.

Response. The BIA agrees that the citations provided for appeals in the NPRM were general in nature and that Subpart F contains no provisions for hearings. Therefore, recommended citations on appeals are being incorporated into § 23.13 (c) and (f) and the words "Hearings and" are being deleted from the title in Subpart F.

Comment. Numerous comments recommended that the entire grant process be streamlined for both "on-reservation" and off-reservation Indian organization applicants, as well as the establishment of minimum grant application and grant administration requirements. Commenters stated that some of the detailed information required for the submission of grant applications is excessive or redundant; some sections are considered restrictive; and that the application process could be streamlined.

Tribes recommended that, in keeping with the BIA's policy on program operations, the entire grant process be dealt with at the lowest level of decision-making, in this case by the Agency Superintendent. Similarly, all comments received from potential off-reservation Indian organization applicants supported and recommended that the area offices continue to bear the responsibility for the conduct of the competitive ICWA grant review and award process for off-reservation applicants. Tribes also recommended that the ICWA grants be awarded under the authority of the Indian Self-Determination Act and regulations. However, for the reason discussed earlier, this is not feasible.

Response: Although off-reservation Indian organizations presented their views on why ICWA grants to such organizations should also be awarded noncompetitively, that is not an alternative for the BIA for the reasons discussed in the preamble. Some off-reservation Indian organizations also requested authority to operate the same types of on-reservation programs operated by tribes. These regulations identify off-reservation ICWA programs as those delineated by statute at 25 U.S.C. 1932. However, it should be noted that the list of off-reservation ICWA programs is nonexclusive, provided other program activities promote and fulfill the intent and purposes of the Act.

Based upon the above comments and as previously discussed, the grant applications and award processes are dichotomized to address two categories of applicants: (1) Tribal government applicants (formerly called "on- and near-reservation programs"); and (2) off-reservation Indian organization applicants. Accordingly, tribal applicants formerly identified at proposed § 23.21 are designated as "tribal government" applicants at a newly established subpart C, and subsequent references are consistent

with this renamed applicant category. The term "tribal government" better defines the tribal applicants and recognizes the Federal government's government-to-government relationship with Indian tribes, rather than relating to tribal ICWA programs on the basis of their locales.

Subpart C includes and sequences all sections applicable to the noncompetitive tribal government grant application and administrative processes as published in the NPRM at proposed §§ 23.21; 23.22; 23.23; 23.24; 23.26; 23.27; 23.28; 23.32; 23.33; 23.42; 23.43; 23.45; and 23.51, the basic components of which remain intact in subpart C of the final rule. Tribal government applications will be processed by the appropriate Agency Superintendent or Area Director.

Likewise, the newly established subpart D delineates the competitive grant review and award process exclusively for off-reservation Indian organization applicants. The grant application process in subpart D has been redirected in response to overwhelming support for the area offices to continue to conduct the competitive reviews of off-reservation ICWA applications and make funding decisions. Thus, off-reservation ICWA applications will be reviewed and processed in their entirety by the Area Directors, rather than by the centralized review committee as previously contemplated.

Subparts C and D each identify in one subpart all sections applicable to each respective applicant.

All general references to the BIA in the NPRM are corrected throughout this document. Specific BIA officials and/or offices are now identified.

Subpart C. The following section-by-section discussion of subpart C of the final rule highlights only those changes or additions made in response to specific comments/recommendations with respect to the implementation of this subpart for tribal government applicants. The rearrangement of those grant application contents and procedures, grant reporting requirements and other administrative provisions identified and published in the NPRM at §§ 23.21; 23.22; 23.23; 23.24; 23.26; 23.27; 23.28; 23.32; 23.33; 23.42; 23.43; 23.44; 23.47 and 23.51, and which basically remain intact in subpart C of the final rule, will not be discussed in detail. Applicable sections cited are consolidated and streamlined for purposes of clarity and efficiency.

Sec. 23.21. Through publication of a **Federal Register** announcement at the outset of the implementation of the noncompetitive ICWA grant award process during which tribal applications will be initially solicited, the Assistant Secretary will notify eligible tribal applicants under subpart C of the amount of ICWA funds available for their ICWA program. The funding levels will be based upon the service area population to be served. Upon the receipt of this notice from the Agency Superintendent or appropriate Area Director, tribal applicants shall prepare and submit a complete ICWA application within the prescribed timeframe to the Agency Superintendent or Area Director. Thereafter, it is intended that core ICWA grant funds will be awarded annually to eligible tribal applicants, provided their ICWA programs meet the requirements delineated at § 23.23(c).

One political subunit of a tribal government sought recognition as an eligible tribal applicant, separate from the tribe's governing body. No change is made because such an exception would permit the receipt and award of two ICWA grants for the benefit of one tribe.

Sec. 23.22. This section provides a nonexclusive list of ICWA programs and activities, including tribally designed programs intended to promote the intent and purposes of the Act. Use of ICWA funds as non-Federal matching shares is consistent with the new policy statement. In keeping with the tenets of Indian Self-Determination policy and to facilitate increased self-determination among tribes, tribal governments are given the flexibility and latitude they sought to design, develop, and implement comprehensive Indian child and family service programs designed to meet community needs. In order to maximize the impact of available resources, it is intended that ICWA grant programs funded under subpart C coordinate with and complement similar Federal, state, local, and tribal programs.

Sec. 23.23. For purposes of clarification in this section and elsewhere within the regulations, reference is made to the Secretary or his/her designee to indicate that the Secretary delegates his/her decision-making authority to other Federal officials.

For the reasons given, references to the following subject matter are deleted: (1) The verification process for the applicant's service area population because this determination will not occur annually, but only during the initial funding phase; (2) all references to preventive and reunification services, because the current emphasis is on comprehensiveness, which includes prevention and reunification services; (3) references to specific employee qualifications/staffing requirements, plans for regular access to professional services, and the provision of specialized child welfare services, because it is expected that applicant staffing plans will address these concerns; and (4) the discussion on contract support costs and indirect cost rates, because relevant material on the subject matter is found at 25 CFR part 276, Appendix A.

In order to ensure that grantees comply with title IV of Pub. L. 101–630 with respect to the conduct of character and background investigations of personnel identified in the statute, grantees are expected to initiate efforts to conduct the investigations prior to the actual employment of such personnel and to complete the investigations in a timely fashion.

The subsections on application contents are restated to define more clearly the intended comprehensive developmental approach sought and to better delineate the application requirements. Applicable citations or explanatory language are provided throughout subpart C where references are made to existing Federal requirements.

Subpart D. The following section-by-section discussion of subpart D of the final rule highlights only those changes or additions made in response to specific comments/recommendations with respect to the implementation of this subpart for off-reservation Indian organization applicants.

Similar to the discussion on subpart C, the rearrangement of all sections applicable to competitive grant application contents and procedures, grant reporting requirements and other administrative provisions published in the NPRM at §§ 23.21; 23.22; 23.23; 23.25; 23.26; 23.27; 23.28; 23.29; 23.30; 23.42; 23.43; and 23.47, and which basically remain intact in subpart D of the final rule, will not be discussed in detail. Applicable sections cited are consolidated and streamlined for purposes of clarity and efficiency.

This subpart is refocused from a centralized review system to a competitive review of applications by area review committees, under the direction of the Area Directors. Thus, all references to the Assistant Secretary and the proposed centralized review system are deleted and replaced with the area review system.

Sec. 23.31. As previously discussed and in accordance with the recommendations received from affected applicants, applications under Subpart D will be solicited in response to periodic **Federal Register** announcements and processed in their

entirety by the appropriate Area Director designated at § 23.11 of this part. This designation clearly identifies for prospective applicants under this subpart which Area Director processes their applications. Heretofore, this information was lacking and caused some confusion among applicants as to where to submit their ICWA grant applications.

Sec. 23.32. Similar to § 23.22, this section provides language which comports with the Act and the same nonexclusive list of ICWA programs and activities as those identified in the statute at 25 U.S.C. 1932.

Sec. 23.33. All mandatory application requirements cited herein were previously identified in the NPRM. However, the timeframe allowing for the Area Director's certification and subsequent transmittal of an application to the area review committee is changed from 15 working days to 5 working days because it is anticipated that fewer applications will be received under this subpart. The five-day timeframe, not to be confused with the timeframe for the actual review and scoring of the application, is deemed sufficient for purposes of certification of the application contents only.

As in § 23.23, the subsections on application contents are restated to define better the intended comprehensive developmental approach sought and to delineate better the application requirements. Applicable citations or explanatory language are provided throughout Subpart D where references are made to existing Federal requirements.

For the reasons given, references to the following subject matters are deleted: (1) The requirement for evidence of tribal support via a tribal resolution if more than one-half of the applicant's service area population are members of one tribe. This is deleted because commenters stated this was an unrealistic expectation and there are other means available to determine an applicant's service area population; (2) all references to preventive and reunification services as the current emphasis is on comprehensiveness which includes prevention and reunification services; (3) references to specific employee qualifications/staffing requirements, plans for regular access to professional services, and the provision of specialized child welfare services as it is expected that applicant staffing plans will address these concerns; and (4) the discussion on contract support costs and indirect cost rates is deleted because relevant material on the subject matter is found at 25 CFR part 276, Appendix A.

In order to ensure that grantees comply with Title IV of Pub. L. 101–630 with respect to the conduct of character and background investigations of personnel identified in that statute, grantees are expected to conduct and complete the investigations prior to the actual employment of such personnel.

Applicable citations or explanatory language are provided throughout Subpart D where references are made to existing Federal requirements. Additionally, personnel/offices responsible for implementing specific actions/activities are identified.

Sec. 23.34. In accordance with recommendations received from commenters as discussed earlier, the entire section on the review of, and decisions regarding, off-reservation applications is changed from a centralized review system to area reviews. The personnel and offices identified to carry out the responsibilities as outlined are consistent with area office organizational structures. The competitive review and decision-making processes remain the same, except that the entire process will occur at the area office level.

In response to commenters and to ensure that applications are reviewed by experienced, knowledgeable reviewers, each area review committee is chaired by a person qualified by training and experience in the delivery of Indian child and family service programs.

All funding decisions are made by Area Directors and subject to appeal procedures under § 23.62.

Sec. 23.35. For purposes of timeliness, the timeframe for Central Office action is changed from 60 days to 30 days because fewer competitive applications than in the past are expected to be processed. This would require less time to distribute available funds to the area offices.

Subpart E. All applicable general and uniform grant administrative provisions and requirements are identified herein. New language reflects considerations given to circumstances where changes might occur in the future with respect to applicable Federal statute, regulations, or OMB circulars.

Sec. 23.42. Timeframe requirements for requesting technical assistance, as well as responses to technical assistance, are deleted. It is expected that tribes needing technical assistance will request such assistance to comply with the timeframe for the submission of tribal government applications as delineated in § 23.21 (b), and that appropriate BIA personnel will honor in a timely manner such tribal requests. The timeframe for the receipt of requests from off-reservation applicants for technical assistance is changed to no later than 10 days prior to the close of the application deadline. This is consistent with past experience and, thus, is considered a reasonable timeframe.

In response to commenters, a new section is added on the provision of technical assistance in the event a program receives an unsatisfactory program evaluation.

Sec. 23.43. Consistent with previous changes, authorities for the approval and execution of grants is changed from the Assistant Secretary—Indian Affairs to Area Directors for grants awarded under Subpart D. Likewise, a similar change is made for grants awarded under Subpart C from Area Directors to Agency Superintendents, where applicable. The separation of authorities under this section and those identified in § 23.44 are consistent with current BIA practice.

Sec. 23.44. This section is refocused to grantee responsibility for achieving programmatic goals, providing assurance that the quality and quantity of actual program performance conforms to the requirements of the grant award document and compliance with applicable Federal requirements. Consistent with current policy and practice, grant program and fiscal monitoring responsibilities are assigned or designated by the Area Directors.

Sec. 23.45. Commenters expressed concerns that grants awarded competitively under Subpart D should be scored and awarded on the basis of the final form of the grant application received at the close of the application period. Applicants should identify all subgrants within their application; thus, the provision for subgrants under Subpart D was considered unnecessary.

The BIA agrees. Therefore, subgranting procedures will apply only to grants awarded under Subpart C of this part.

Sec. 23.46 (h). This subsection, formerly identified in the NPRM at § 23.48 (Penalties), is moved to § 23.46 (h) for purposes of applicability under this section and an appropriate citation is provided for said penalties.

Sec. 23.47. Specific timeframe requirements for the receipt of required reports and other information are changed to reflect reporting due dates specified in grant award documents. This is a more reasonable approach than the timeframes imposed in the NPRM.

Sec. 23.47 (c)(1)(iv). This statistical reporting requirement, mandated by Pub. L. 99–570 since enactment in 1986, is being included in regulation. To date, the BIA has not had the opportunity to

include this reporting requirement in any regulation.

Sec. 23.47 (c)(2). Language change in this section reflects that the BIA may negotiate for the provision of other grant-related reports not previously identified, replacing the NPRM language which stated that reports would be submitted in response to requests from OMB or the Congress.

Sec. 23.47 deletions. Commenters regarded the following requirements as unnecessary: (1) Calculating program unit costs; (2) quantification of program outputs; and (3) specific recordkeeping requirements for the maintenance of client case records. The BIA agreed that numbers 1 and 2 were unnecessary and deleted them. However, the specificity for client case record content is removed and is now covered under the general recordkeeping requirements as §§ 23.23 and 23.33.

Sec. 23.50. Due to concerns expressed with respect to serving all members of an Indian family unit, regardless of tribal membership/affiliation, this section is revised so that tribes may, under Subpart C, extend ICWA services to non-Indian family members related by marriage to tribal members; provided that such services comport with the intent and purposes of the ICWA.

NPRM references to service eligibility for on- and near-reservation Indian child and family service programs are deleted and replaced with tribal government ICWA programs, consistent with the terminology used for tribal ICWA programs.

Sec. 23.51. The section on Revisions or Amendments of grants formerly identified at § 23.51 in the NPRM is moved to § 23.21 (c) and is applicable to grants awarded under Subpart C. Commenters expressed concerns that grants awarded competitively under Subpart D should be scored, awarded, and operated on the basis of the final form of the grant application contents received at the close of the application period. Commenters expressed their belief that applications which are awarded competitively would not ordinarily have a need for grant revisions or modifications of a material nature once awarded. The BIA agrees and thus these provisions will apply only to grants awarded under Subpart C of this part.

Secs. 23.52 and 23.53. These two sections identify by title the BIA officials responsible for taking the specific actions delineated in these two sections. This change replaces the generic term "BIA" as used in the NPRM.

Subpart F—Appeals. In response to comments received, the words "Hearings and" are removed from the title in Subpart F because no provisions for the conduct of hearings are included in this subpart. Consistent with the changes made with respect to the BIA line officials making decisions on all aspects of the ICWA grant award process, their decisions are subject to appeal under this subpart. The titles of these decision makers are included in §§ 23.61 and 23.62. Specific appeal citations provided by the IBIA with respect to decisions appealable to the IBIA are incorporated at §§ 23.61 and 23.62. These citations replace the generic references made in the NPRM to "subpart 2 of this chapter."

Subpart H—Assistance to State Courts. For purposes of clarification in this subpart, new language refers to the Secretary or his/her designee to indicate that the Secretary delegates his/her decision-making authority to other Federal officials. An additional change in this subpart clarifies that the BIA is not obligated to pay for the services identified in this subpart.

Comments Not Adopted.

Comment. Some commenters recommended that the definitions of *Indian, Indian child,* and *Indian tribe* be changed and/or expanded, such as the inclusion of Alaska Native corporations incorporated under state law under the definition of *Indian tribe.*

Response. These three definitions are taken verbatim from Pub. L. 95–608, the Indian Child Welfare Act. The BIA has no authority to change these statutory definitions.

Comment. One commenter recommended that revised regulations require ICWA notices be sent to tribes via registered mail. Additionally, one commenter suggested that the time limitation imposed on tribes to prepare for involuntary child custody proceedings in state courts be extended to 30 days to allow additional time to prepare for court proceedings.

Response. No change is made in the manner in which ICWA notices are served due to considerations given for proof of delivery of said notices in a timely manner. Registered mail is delivered only to the addressee. This means ICWA notices may not be delivered should the addressee not be present at the time of mail delivery. Unclaimed registered mail is held by the mail service for a limited number of days and then returned to the sender. On the other hand, mail delivered via certified mail with return receipt requested may be delivered to the office in the address rather than only to a specific person. Because the intent of providing ICWA notices is timely tribal notification of child custody proceedings and proof that such notice was given, certified mail with return receipt requested is the preferred method of serving ICWA notices to assure its timely delivery.

The timeframes specified for all parties/agents involved in the service of ICWA notices pursuant to 25 U.S.C. 1912 are imposed by statute and therefore not subject to change.

Comment. A commenter recommended that state courts be required to notify tribes of voluntary child custody proceedings under § 23.11.

Response. This recommendation is not incorporated because the ICWA addresses only mandatory tribal notification in cases involving involuntary child custody proceedings.

Comment. Some commenters requested clarification of the "juvenile delinquency" as it is used in § 23.13. No change is made.

Response. The manner in which the above term is used is in the context of applying and following state-established procedures and criteria in calculating legal payment fees/rates for court-appointed legal counsel in accordance with § 23.13. Each state has set criteria, procedures, and rates applicable to the calculation of legal fees associated with the conduct of state juvenile delinquency proceedings. In the absence of similar state-established criteria, procedures, and rates to assist in determining attorney fees and expenses associated with involuntary child custody proceedings, the language at § 23.13 (d) is intended to lend guidance to state courts in determining/calculating attorney fees and legal expenses for court-appointed legal counsel in accordance with § 23.13 by following the same state-established procedures and criteria for calculating legal payment fees/rates for state juvenile delinquency proceedings. This section does not imply that juvenile delinquency proceedings are covered under the ICWA.

Comments. One commenter recommended that failure of the Area Director to comply with the established timeframes specified at §§ 23.13 (c) and 23.13 (f) be grounds for automatic approval of attorney fees and expenses pursuant to § 23.13. A commenter suggested that the provision for payment of attorney fees and expenses be extended to attorneys representing Indian tribes in state courts.

Response. No change is made because automatic approval would neither guarantee nor assure that applicants under § 23.13 would be eligible for attorney fees or expenses as delineated

in that section. No change is made with respect to payment of attorney fees for legal counsel representing tribes in state courts, because the ICWA addresses only the need for court-appointed legal counsel to represent an indigent Indian parent or Indian custodian, but does not address similar representation for tribes.

Comment. Commenters recommended that the term "multi-year" be defined in terms of years.

Response. This suggestion is not adopted because the BIA desires to allow flexibility within the meaning of multi-year, whether it be in terms of two, three, or five years. As the BIA and tribes gain experience in the ICWA noncompetitive grant award system, both parties may eventually desire long-term grant awards to tribes.

Comment. A commenter recommended that off-reservation ICWA programs be allowed to serve those individuals who meet the definition of *Indian* as defined in the Indian Health Care Improvement Act of 1976.

Response. For purposes of service eligibility for off-reservation ICWA grant programs, the definition of *Indian* already includes persons defined in section (4)(c) of the Act cited above. (25 U.S.C. 1603 and 1934).

Comment. One commenter recommended that off-reservation Indian organization applicants under Subpart D be allowed to use ICWA funds as non-Federal matching shares for other Federal programs in the same manner that Indian tribes are.

Response. The above recommendation is not incorporated because the statutory provision for this flexibility is limited to Indian tribes (25 U.S.C. 1931) and does not extend to off-reservation Indian organizations. This is because, absent any support from and/or sanction by tribal governments, these organizations, in and of themselves, do not qualify under current regulations as eligible applicants in their own right to apply for funds or administer such Federal programs as those under Title IV–B, IV–E, or XX of the Social Security Act.

Comment. Several off-reservation Indian organizations who have successfully operated ICWA programs since the inception of the grant program recommended that similarly situated grantees receive some type of recognition during the grant application scoring process for demonstrating a history of successful program performance.

Response. Although specific procedural scoring issues relative to competitive grant applications are generally not covered by regulation, the BIA implemented the above recommendation by way of awarding bonus points to off-reservation applicants for past successful program performance during the FY 1993 grant cycle. It is anticipated that bonus points will continue to be used in the future.

Comment. Some off-reservation Indian organizations recommended that national ICWA program priorities be established to give more specific guidance to applicants.

Response. No change is made with respect to the establishment of national ICWA program priorities. It is the position of the BIA that program priorities should be locally determined on the basis of identified needs and gaps in services.

Comment. Some commenters recommended that tribes involved in the subgranting of certain administrative procedures to Indian organizations be held harmless with respect to grantee accountability over ICWA grant activity and funds.

Response. No change is made because the subgranting procedures at § 23.45 are consistent with existing BIA regulations on subgrants whereby the grantee retains administrative and financial responsibility over the ICWA grant activity and funds.

Comment. Comments were received with respect to the applicability of these regulations to tribes with Self-governance compacts.

Response. To the extent that Self-governance compact tribes do not request and secure approval for waivers to specific regulations, all regulatory provisions are applicable to Self-governance tribes. Similarly, all regulations are applicable to tribes operating Consolidated Tribal Government Programs.

Comment. One law firm and one Indian organization expressed their views that the BIA failed to engage in "meaningful" consultation.

Response. As discussed in the preamble, the BIA has repeatedly provided various forums and opportunities for tribal participation throughout the entire regulatory revision process during 1990–1992. The BIA feels it conducted "meaningful" consultation with tribes and other interested parties.

The information collection requirements contained in Part 23.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number [insert new number]. This information is being collected and will be used to determine eligibility for payment of legal fees for indigent Indian parents and Indian custodians, involved in involuntary Indian child custody proceedings in state courts, who are not eligible for legal services through other mechanisms. Response to this request is required to obtain a benefit.

Public reporting for this information collection is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information collection. Direct comments regarding the burden estimates or any aspect of this information collection should be mailed or hand-delivered to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 336–SIB, 1849 C Street, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Paperwork Reduction Project—insert new clearance number], Office of Management and Budget, Washington, DC 20503.

The information collection requirements contained in 25 CFR parts 23.21; 23.31; 23.46; 23.47, and 23.71 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1076–0131. The information collection requirements under 25 CFR parts 23.21 and 23.31 are collected in the form of ICWA grant applications from Indian tribes and off-reservation Indian organizations. A response to this request is required to obtain grant funds. The information collection requirements under 25 CFR part 23.46 are collected in compliance with applicable OMB circulars on financial management, internal and external controls and other fiscal assurances. The grantee information collection requirements under 25 CFR part 23.47 are collected in the form of quarterly and annual program performance narrative reports and statistical data as required by the grant award document. Pursuant to 25 U.S.C. 1951, the information collection requirement under 25 CFR part 23.71 is collected from state courts entering final adoption decrees for any Indian child and is provided to and maintained by the Secretary.

Public reporting for the information collection at 25 CFR parts 23.21 and 23.31 is estimated to average 32 hours per response, including the time for reviewing the grant application instructions, gathering the necessary information and data, and completing the grant application. Public reporting for the information collection at 25 CFR parts 23.46 and 23.47 is estimated to average a combined total of 16 annual hours per grantee, including the time for gathering the necessary information and data, and completing the required forms and reports. Public reporting for the information collection at 25 CFR part

23.71 is estimated to average 4 hours per response, including the time for obtaining and preparing the final adoption decree for transmittal to the Secretary. Direct comments regarding any of these burden estimates or any aspect of this information collection should be mailed or hand-delivered to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 336–SIB, 1849 C Street, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Paperwork Reduction Project 1076–0131], Office of Management and Budget, Washington, DC 20503.

This rulemaking action revising 25 CFR part 23 will be limited in applicability to federally recognized Indian tribes and off-reservation Indian organizations applying for grant programs. BIA personnel will receive and process grant applications and monitor the grants once awarded. Indian tribes and off-reservation Indian organizations will administer and manage the day-to-day operations of the grant activities. Individual Indians and Indian families will be the recipients of services under these grant programs. Given the low levels of funding which are expected to be available for small tribes, this rule will not impose a significant economic effect on a substantial number of small entities.

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because of the limited applicability as stated above.

This regulation has been reviewed under Executive Order 12866.

The Department of the Interior has determined that this rule is not a Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environment Policy Act of 1969.

In accordance with Executive Order 12630, the Department of the Interior has determined that this rule does not have significant takings implications.

The Department of the Interior has determined that this rule does not have significant federalism effects.

The Department of the Interior has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

The primary author of this document is Betty B. Tippeconnie, Chief, Branch of Child and Family Services, Division of Social Services, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 310–SIB, Washington, DC 20240.

List of Subjects in 25 CFR Part 23

Administrative practices and procedures, Child custody proceedings, Child Welfare, Grant programs—Indians, Grant programs—child and family service, Grant appeals, Indians, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, part 23 of title 25, chapter I, of the Code of Federal Regulations is revised as set forth below.

PART 23—INDIAN CHILD WELFARE ACT

Subpart A—Purpose, Definitions, Policy

Sec. 23.1 Purpose.
Sec. 23.2 Definitions.
Sec. 23.3 Policy.
Sec. 23.4 Information collection.

Subpart B—Notice of Involuntary Child Custody Proceedings and Payment for Appointed Counsel in State Courts

Sec. 23.11 Notice.
Sec. 23.12 Designated tribal agent for service of notice.
Sec. 23.13 Payment for appointed counsel in involuntary Indian child custody proceedings in state courts.

Subpart C—Grants to Indian Tribes for Title II Indian Child and Family Service Programs

Sec. 23.21 Noncompetitive tribal government grants.
Sec. 23.22 Purpose of tribal government grants.
Sec. 23.23 Tribal government application contents.

Subpart D—Grants to Off-reservation Indian Organizations for Title II Indian Child and Family Service Programs

Sec. 23.31 Competitive off-reservation grant process.
Sec. 23.32 Purpose of off-reservation grants.
Sec. 23.33 Competitive off-reservation application contents and application selection criteria.
Sec. 23.34 Review and decision on off-reservation applications by Area Director.
Sec. 23.35 Deadline for Central Office action.

Subpart E—General and Uniform Grant Administration Provisions and Requirements

Sec. 23.41 Uniform grant administration provisions, requirements and applicability.
Sec. 23.42 Technical assistance.
Sec. 23.43 Authority for grant approval and execution.
Sec. 23.44 Grant administration and monitoring.
Sec. 23.45 Subgrants.
Sec. 23.46 Financial management, internal and external controls and other assurances.
Sec. 23.47 Reports and availability of information to Indians.
Sec. 23.48 Matching shares and agreements.
Sec. 23.49 Fair and uniform provision of services.
Sec. 23.50 Service eligibility.
Sec. 23.51 Grant carry-over authority.
Sec. 23.52 Grant suspension.
Sec. 23.53 Cancellation.

Subpart F—Appeals

Sec. 23.61 Appeals from decision or action by Agency Superintendent, Area Director or Grants Officer.
Sec. 23.62 Appeals from decision or action by Area Director under subpart D.
Sec. 23.63 Appeals from inaction of official.

Subpart G—Administrative Provisions

Sec. 23.71 Recordkeeping and information availability.

Subpart H—Assistance to State Courts

Sec. 23.81 Assistance in identifying witnesses.
Sec. 23.82 Assistance in identifying language interpreters.
Sec. 23.83 Assistance in locating biological parents of Indian child after termination of adoption.

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 1901–1952.

Subpart A—Purpose, Definitions, and Policy

§ 23.1 Purpose.

The purpose of the regulations in this part is to govern the provision of funding for, and the administration of Indian child and family service programs as authorized by the Indian Child Welfare Act of 1978 (Pub. L. 95–608, 92 Stat. 3069, 25 U.S.C. 2, 9, 1901–1952).

§ 23.2 Definitions.

Act means the Indian Child Welfare Act (ICWA), Pub. L. 95–608, 92 Stat. 3069, 25 U.S.C. 1901 *et seq.*

Assistant Secretary means the Assistant Secretary—Indian Affairs, the Department of the Interior.

Bureau of Indian Affairs (BIA) means the Bureau of Indian Affairs, the Department of the Interior.

Child Custody Proceeding includes:

(1) Foster care placement, which shall mean any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(2) Termination of parental rights, which shall mean any action resulting in the termination of the parent-child relationship;

(3) Preadoptive placement, which shall mean the temporary placement of

an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement;

(4) Adoptive placement, which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption; and

(5) Other tribal placements made in accordance with the placement preferences of the Act, including the temporary or permanent placement of an Indian child in accordance with tribal children's codes and local tribal custom or tradition;

(6) The above terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime in the jurisdiction where the act occurred or upon an award, in a divorce proceeding, of custody to one of the parents.

Consortium means an association or partnership of two or more eligible applicants who enter into an agreement to administer a grant program and to provide services under the grant to Indian residents in a specific geographical area when it is administratively feasible to provide an adequate level of services within the area.

Extended family member shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

Grant means a written agreement between the BIA and the governing body of an Indian tribe or Indian organization wherein the BIA provides funds to the grantee to plan, conduct or administer specific programs, services, or activities and where the administrative and programmatic provisions are specifically delineated.

Grantee means the tribal governing body of an Indian tribe or Board of Directors of an Indian organization responsible for grant administration.

Grants Officer means an officially designated officer who administers ICWA grants awarded by the Bureau of Indian Affairs, the Department of the Interior.

Indian means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1606.

Indian child means any unmarried person who is under age 18 and is either a member of an Indian tribe, or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

Indian child's tribe means the Indian tribe in which an Indian child is a member or is eligible for membership or, in the case of an Indian child who is a member of or is eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts, to be determined in accordance with the BIA's "Guidelines for State Courts—Indian Child Custody Proceedings."

Indian custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody and control has been transferred by the parent of such child.

Indian organization, solely for purposes of eligibility for grants under subpart D of this part, means any legally established group, association, partnership, corporation, or other legal entity which is owned or controlled by Indians, or a majority (51 percent or more) of whose members are Indians.

Indian preference means preference and opportunities for employment and training provided to Indians in the administration of grants in accordance with section 7 (b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians federally recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602 (c).

Off-reservation ICWA program means an ICWA program administered in accordance with 25 U.S.C. 1932 by an off-reservation Indian organization.

Parent means the biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. The term does not include the unwed father where paternity has not been acknowledged or established.

Reservation means Indian country as defined in 18 U.S.C. 1151 and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

Secretary means the Secretary of the Interior.

Service areas solely for newly recognized or restored Indian tribes without established reservations means those service areas congressionally established by Federal law to be the equivalent of a reservation for the purpose of determining the eligibility of a newly recognized or restored Indian tribe and its members for all Federal services and benefits.

State court means any agent or agency of a state, including the District of Columbia or any territory or possession of the United States, or any political subdivision empowered by law to terminate parental rights or to make foster care placements, preadoptive placements, or adoptive placements.

Subgrant means a secondary grant that undertakes part of the obligations of the primary grant, and assumes the legal and financial responsibility for the funds awarded and for the performance of the grant-supported activity.

Technical assistance means the provision of oral, written, or other relevant information and assistance to prospective grant applicants in the development of their grant proposals. Technical assistance may include a preliminary review of an application to assist the applicant in identifying the strengths and weaknesses of the proposal, ongoing program planning, design and evaluation, and such other program-specific assistance as is necessary for ongoing grant administration and management.

Title II means Title II of Public Law 95–608, the Indian Child Welfare Act of 1978, which authorizes the Secretary to make grants to Indian tribes and off-reservation Indian organizations for the establishment and operation of Indian child and family service programs.

Tribal Court means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

Tribal government means the federally recognized governing body of an Indian tribe.

Value means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

§ 23.3 Policy.

In enacting the Indian Child Welfare Act of 1978, Pub. L. 95–608, the Congress has declared that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and Indian families by the

establishment of minimum Federal standards to prevent the arbitrary removal of Indian children from their families and tribes and to ensure that measures which prevent the breakup of Indian families are followed in child custody proceedings (25 U.S.C. 1902). Indian child and family service programs receiving Title II funds and operated by federally recognized Indian tribes and off-reservation Indian organizations shall reflect the unique values of Indian culture and promote the stability and security of Indian children, Indian families and Indian communities. It is the policy of the Bureau of Indian Affairs to emphasize and facilitate the comprehensive design, development and implementation of Indian child and family service programs in coordination with other Federal, state, local, and tribal programs which strengthen and preserve Indian families and Indian tribes.

§ 23.4 Information collection.

(a) The information collection requirements contained in § 23.13 of this part have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1076–0111.

(1) This information will be used to determine eligibility for payment of legal fees for indigent Indian parents and Indian custodians, involved in involuntary Indian child custody proceedings in state courts, who are not eligible for legal services through other mechanisms. Response to this request is required to obtain a benefit.

(2) Public reporting for this information collection is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information collection. Direct comments regarding the burden estimate or any aspect of this information collection should be mailed or hand-delivered to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 336–SIB, 1849 C street, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs Paperwork Reduction Project—1076–0111, Office of Management and Budget, Washington, DC 20503.

(b) The information collection requirements contained in §§ 23.21; 23.31; 23.46; 23.47, and 23.71 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076–0131. The information collection requirements under §§ 23.21 and 23.31 are collected in the form of ICWA grant applications from Indian tribes and off-reservation Indian organizations. A response to this request is required to obtain grant funds. The information collection requirements under 23.46 are collected in compliance with applicable OMB circulars on financial management, internal and external controls and other fiscal assurances in accordance with existing Federal grant administration and reporting requirements. The grantee information collection requirements under § 23.47 are collected in the form of quarterly and annual program performance narrative reports and statistical data as required by the grant award document. Pursuant to 25 U.S.C. 1951, the information collection requirement under § 23.71 is collected from state courts entering final adoption decrees for any Indian child and is provided to and maintained by the Secretary.

(1) Public reporting for the information collection at §§ 23.21 and 23.31 is estimated to average 32 hours per response, including the time for reviewing the grant application instructions, gathering the necessary information and data, and completing the grant application. Public reporting for the information collection at §§ 23.46 and 23.47 is estimated to average a combined total of 16 annual hours per grantee, including the time for gathering the necessary information and data, and completing the required forms and reports. Public reporting for the information collection at § 23.71 is estimated to average 4 hours per response, including the time for obtaining and preparing the final adoption decree for transmittal to the Secretary.

(2) Direct comments regarding any of these burden estimates or any aspect of these information collection requirements should be mailed or hand-delivered to the Bureau of Indian Affairs, Information Collection Clearance Officer, room 336–SIB, 1849 C Street, NW., Washington, DC, 20240; and the Office of Information and Regulatory Affairs Paperwork Reduction Project—1076–0131, Office of Management and Budget, Washington, DC 20503.

Subpart B—Notice of Involuntary Child Custody Proceedings and Payment for Appointed Counsel in State Courts

§ 23.11 Notice.

(a) In any involuntary proceeding in a state court where the court knows or has reason to know that an Indian child is involved, and where the identity and location of the child's Indian parents or custodians or tribe is known, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall directly notify the Indian parents, Indian custodians, and the child's tribe by certified mail with return receipt requested, of the pending proceedings and of their right of intervention. Notice shall include requisite information identified at paragraphs (d)(1) through (4) and (e)(1) through (6) of this section, consistent with the confidentiality requirement in paragraph (e)(7) of this section. Copies of these notices shall be sent to the Secretary and the appropriate Area Director listed in paragraphs (c)(1) through (12) of this section.

(b) If the identity or location of the Indian parents, Indian custodians or the child's tribe cannot be determined, notice of the pendency of any involuntary child custody proceeding involving an Indian child in a state court shall be sent by certified mail with return receipt requested to the appropriate Area Director listed in paragraphs (c)(1) through (12) of this section. In order to establish tribal identity, it is necessary to provide as much information as is known on the Indian child's direct lineal ancestors including, but not limited to, the information delineated at paragraph (d)(1) through (4) of this section.

(c)(1) For proceedings in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia or any territory or possession of the United States, notices shall be sent to the following address: Eastern Area Director, Bureau of Indian Affairs, 3701 N. Fairfax Drive, Suite 260, Arlington, Virginia 22201.

(2) For proceedings in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, notices shall be sent to the following address: Minneapolis Area Director, Bureau of Indian Affairs, 331 Second Avenue South, Minneapolis, Minnesota 55401–2241.

(3) For proceedings in Nebraska, North Dakota, or South Dakota, notices shall be sent to the following address: Aberdeen Area Director, Bureau of Indian Affairs, 115 Fourth Avenue, SE, Aberdeen, South Dakota 57401.

(4) For proceedings in Kansas, Texas (except for notices to the Ysleta del Sur Pueblo of El Paso County, Texas), and the western Oklahoma counties of Alfalfa, Beaver, Beckman, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis,

Garfield, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Noble, Oklahoma, Pawnee, Payne, Pottawatomie, Roger Mills, Texas, Tillman, Washita, Woods and Woodward, notices shall be sent to the following address: Anadarko Area Director, Bureau of Indian Affairs, P.O. Box 368, Anadarko, Oklahoma 73005. Notices to the Ysleta del Sur Pueblo of El Paso County, Texas shall be sent to the Albuquerque Area Director at the address listed in paragraph (c)(6) of this section.

(5) For proceedings in Wyoming or Montana (except for notices to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana), notices shall be sent to the following address: Billings Area Director, Bureau of Indian Affairs, 316 N. 26th Street, Billings, Montana 59101. Notices to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana, shall be sent to the Portland Area Director at the address listed in paragraph (c)(11) of this section.

(6) For proceedings in the Texas counties of El Paso and Hudspeth and proceedings in Colorado or New Mexico (exclusive of notices to the Navajo Tribe from the New Mexico counties listed in paragraph (c)(9) of this section), notices shall be sent to the following address: Albuquerque Area Director, Bureau of Indian Affairs, 615 First Street, P.O. Box 26567, Albuquerque, New Mexico 87125. Notices to the Navajo Tribe shall be sent to the Navajo Area Director at the address listed in paragraph (c)(9) of this section.

(7) For proceedings in Alaska (except for notices to the Metlakatla Indian Community, Alaska), notices shall be sent to the following address: Juneau Area Director, Bureau of Indian Affairs, 709 West 9th Street, Juneau, Alaska 99802–1219. Notices to the Metlakatla Indian Community of the Annette Islands Reserve, Alaska, shall be sent to the Portland Area Director at the address listed in paragraph (c)(11) of this section.

(8) For proceedings in Arkansas, Missouri, and the eastern Oklahoma counties of Adair, Atoka, Bryan, Carter, Cherokee, Craig, Creek, Choctaw, Coal, Delaware, Garvin, Grady, Haskell, Hughes, Jefferson, Johnson, Latimer, LeFlore, Love, Mayes, McCurtain, McClain, McIntosh, Murray, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pittsburg, Pontotoc, Pushmataha, Marshall, Rogers, Seminole, Sequoyah, Wagoner, Washington, Stephens, and Tulsa, notices shall be sent to the following address: Muskogee Area Director, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, Oklahoma 74401.

(9) For proceedings in the Arizona counties of Apache, Coconino (except for notices to the Hopi and San Juan Paiute Tribes) and Navajo (except for notices to the Hopi Tribe); the New Mexico counties of McKinley (except for notices to the Zuni Tribe), San Juan, and Socorro; and the Utah county of San Juan, notices shall be sent to the following address: Navajo Area Director, Bureau of Indian Affairs, P.O. Box 1060, Gallup, New Mexico 87301. Notices to the Hopi and San Juan Paiute Tribes shall be sent to the Phoenix Area Director at the address listed in paragraph (c)(10) of this section. Notices to the Zuni Tribe shall be sent to the Albuquerque Area Director at the address listed in paragraph (c)(6) of this section.

(10) For proceedings in Arizona (exclusive of notices to the Navajo Tribe from those counties listed in paragraph (c)(9) of this section), Nevada or Utah (exclusive of San Juan county), notices shall be sent to the following address: Phoenix Area Director, Bureau of Indian Affairs, 1 North First Street, P.O. Box 10, Phoenix, Arizona 85001.

(11) For proceedings in Idaho, Oregon or Washington, notices shall be sent to the following address: Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232. All notices to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, located in the Montana counties of Flathead, Lake, Missoula, and Sanders, shall also be sent to the Portland Area Director.

(12) For proceedings in California or Hawaii, notices shall be sent to the following address: Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

(d) Notice to the appropriate Area Director pursuant to paragraph (b) of this section may be sent by certified mail with return receipt requested or by personal service and shall include the following information, if known:

(1) Name of the Indian child, the child's birthdate and birthplace.

(2) Name of Indian tribe(s) in which the child is enrolled or may be eligible for enrollment.

(3) All names known, and current and former addresses of the Indian child's biological mother, biological father, maternal and paternal grandparents and great grandparents or Indian custodians, including maiden, married and former names or aliases; birthdates; places of birth and death; tribal enrollment numbers, and/or other identifying information.

(4) A copy of the petition, complaint or other document by which the proceeding was initiated.

(e) In addition, notice provided to the appropriate Area Director pursuant to paragraph (b) of this section shall include the following:

(1) A statement of the absolute right of the biological Indian parents, the child's Indian custodians and the child's tribe to intervene in the proceedings.

(2) A statement that if the Indian parent(s) or Indian custodian(s) is (are) unable to afford counsel, and where a state court determines indigency, counsel will be appointed to represent the Indian parent or Indian custodian where authorized by state law.

(3) A statement of the right of the Indian parents, Indian custodians and child's tribe to be granted, upon request, up to 20 additional days to prepare for the proceedings.

(4) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.

(5) A statement of the right of the Indian parents, Indian custodians and the child's tribe to petition the court for transfer of the proceeding to the child's tribal court pursuant to 25 U.S.C. 1911, absent objection by either parent: Provided, that such transfer shall be subject to declination by the tribal court of said tribe.

(6) A statement of the potential legal consequences of the proceedings on the future custodial and parental rights of the Indian parents or Indian custodians.

(7) A statement that, since child custody proceedings are conducted on a confidential basis, all parties notified shall keep confidential the information contained in the notice concerning the particular proceeding. The notices shall not be handled by anyone not needing the information contained in the notices in order to exercise the tribe's rights under the Act.

(f) Upon receipt of the notice, the Secretary or his/her designee shall make reasonable documented efforts to locate and notify the child's tribe and the child's Indian parents or Indian custodians. The Secretary or his/her designee shall have 15 days, after receipt of the notice from the persons initiating the proceedings, to notify the child's tribe and Indian parents or Indian custodians and send a copy of the notice to the court. If within the 15-day time period the Secretary or his/her designee is unable to verify that the child meets the criteria of an Indian child as defined in 25 U.S.C. 1903, or is unable to locate the Indian parents or

Indian custodians, the Secretary or his/her designee shall so inform the court prior to initiation of the proceedings and state how much more time, if any, will be needed to complete the search. The Secretary or his/her designee shall complete all research efforts, even if those efforts cannot be completed before the child custody proceeding begins.

(g) Upon request from a party to an Indian child custody proceeding, the Secretary or his/her designee shall make a reasonable attempt to identify and locate the child's tribe, Indian parents or Indian custodians to assist the party seeking the information.

§ 23.12 Designated tribal agent for service of notice.

Any Indian tribe entitled to notice pursuant to 25 U.S.C. 1912 may designate by resolution, or by such other form as the tribe's constitution or current practice requires, an agent for service of notice other than the tribal chairman and send a copy of the designation to the Secretary or his/her designee. The Secretary or his/her designee shall update and publish as necessary the names and addresses of the designated agents in the **Federal Register**. A current listing of such agents shall be available through the area offices.

§ 23.13 Payment for appointed counsel in involuntary Indian child custody proceedings in state courts.

(a) When a state court appoints counsel for an indigent Indian party in an involuntary Indian child custody proceeding for which the appointment of counsel is not authorized under state law, the court shall send written notice of the appointment to the BIA Area Director designated for that state in § 23.11. The notice shall include the following:

(1) Name, address, and telephone number of attorney who has been appointed.

(2) Name and address of client for whom counsel is appointed.

(3) Relationship of client to child.

(4) Name of Indian child's tribe.

(5) Copy of the petition or complaint.

(6) Certification by the court that state law makes no provision for appointment of counsel in such proceedings.

(7) Certification by the court that the Indian client is indigent.

(b) The Area Director shall certify that the client is eligible to have his or her appointed counsel compensated by the BIA unless:

(1) The litigation does not involve a child custody proceeding as defined in 25 U.S.C. 1903 (1);

(2) The child who is the subject of the litigation is not an Indian child as defined in 25 U.S.C. 1903 (4);

(3) The client is neither the Indian child who is the subject of the litigation, the Indian child's parent as defined in 25 U.S.C. 1903 (9), nor the child's Indian custodian as defined in 25 U.S.C. 1903 (6);

(4) State law provides for appointment of counsel in such proceedings;

(5) The notice to the Area Director of appointment of counsel is incomplete; or

(6) Funds are not available for the particular fiscal year.

(c) No later than 10 days after receipt of the notice of appointment of counsel, the Area Director shall notify the court, the client, and the attorney in writing whether the client has been certified as eligible to have his or her attorney fees and expenses paid by the BIA. If certification is denied, the notice shall include written reasons for that decision, together with a statement that complies with 25 CFR 2.7 and that informs the applicant that the decision may be appealed to the Assistant Secretary. The Assistant Secretary shall consider appeals under this subsection in accordance with 25 CFR 2.20 (c) through (e). Appeal procedures shall be as set out in part 2 of this chapter.

(d) When determining attorney fees and expenses, the court shall:

(1) Determine the amount of payment due appointed counsel by the same procedures and criteria it uses in determining the fees and expenses to be paid appointed counsel in state juvenile delinquency proceedings; and

(2) Submit approved vouchers to the Area Director who certified eligibility for BIA payment, together with the court's certification that the amount requested is reasonable under the state standards considering the work actually performed in light of criteria that apply in determining fees and expenses for appointed counsel in state juvenile delinquency proceedings.

(e) The Area Director shall authorize the payment of attorney fees and expenses in the amount requested in the voucher approved by the court unless:

(1) The amount of payment due the state-appointed counsel is inconsistent with the fees and expenses specified in § 23.13 (d)(1); or

(2) The client has not been certified previously as eligible under paragraph (c) of this section; or

(3) The voucher is submitted later than 90 days after completion of the legal action involving a client certified as eligible for payment of legal fees under paragraph (b) of this section.

(f) No later than 15 days after receipt of a payment voucher, the Area Director shall send written notice to the court, the client, and the attorney stating the amount of payment, if any, that has been authorized. If the payment has been denied, or the amount authorized is less than the amount requested in the voucher approved by the court, the notice shall include a written statement of the reasons for the decision together with a statement that complies with 25 CFR 2.7 and that informs the client that the decision may be appealed to the Interior Board of Indian Appeals in accordance with 25 CFR 2.4 (e); 43 CFR 4.310 through 4.318 and 43 CFR 4.330 through 4.340.

(g) Failure of the Area Director to meet the deadline specified in paragraphs (c) and (f) of this section may be treated as a denial for purposes of appeal under paragraph (f) of this section.

(h) Payment for appointed counsel does not extend to Indian tribes involved in state court child custody proceedings or to Indian families involved in Indian child custody proceedings in tribal courts.

Subpart C—Grants to Indian Tribes for Title II Indian Child and Family Service Programs

§ 23.21 Noncompetitive tribal government grants.

(a) *Grant application information and technical assistance.* Information on grant application procedures and related information may be obtained from the appropriate Agency Superintendent or Area Director. Pre-award and ongoing technical assistance to tribal governments shall be provided in accordance with § 23.42 of this part.

(b) *Eligibility requirements for tribal governments.* The tribal government(s) of any Indian tribe or consortium of tribes may submit a properly documented application for a grant to the appropriate Agency Superintendent or Area Director. A tribe may neither submit more than one application for a grant nor be the beneficiary of more than one grant under this subpart.

(1) Through the publication of a **Federal Register** announcement at the outset of the implementation of the noncompetitive grant award process during which tribal applications will be solicited, the Assistant Secretary will notify eligible tribal applicants under this subpart of the amount of core funds available for their ICWA program. The funding levels will be based on the service area population to be served. Upon the receipt of this notice from the Agency Superintendent or appropriate

Area Director, tribal applicants shall submit a completed ICWA application no later than 60 days after the receipt of this notice.

(2) A grant to be awarded under this subpart shall be limited to the tribal governing body(ies) of the tribe(s) to be served by the grant.

(3) For purposes of eligibility for newly recognized or restored Indian tribes without established reservations, such tribes shall be deemed eligible to apply for grants under this subpart to provide ICWA services within those service areas legislatively identified for such tribes.

(4) A grantee under this subpart may make a subgrant to another Indian tribe or an Indian organization subject to the provisions of § 23.45.

(c) *Revision or amendment of grants.* A grantee under this subpart may submit a written request and justification for a post-award grant modification covering material changes to the terms and conditions of the grant, subject to the approval of the grants officer. The request shall include a narrative description of any significant additions, deletions, or changes to the approved program activities or budget in the form of a grant amendment proposal.

(d) Continued annual funding of an ICWA grant under this subpart shall be contingent upon the fulfillment of the requirements delineated at § 23.23(c).

(e) Monitoring and program reporting requirements for grantees under this subpart are delineated at §§ 23.44 and 23.47.

§ 23.22 Purpose of tribal government grants.

(a) Grants awarded under this subpart are for the establishment and operation of tribally designed Indian child and family service programs. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and to ensure that the permanent removal of an Indian child from the custody of his or her Indian parent or Indian custodian shall be a last resort. Such child and family service programs may include, but need not be limited to:

(1) A system for licensing or otherwise regulating Indian foster and adoptive homes, such as establishing tribal standards for approval of on-reservation foster or adoptive homes;

(2) The operation and maintenance of facilities for counseling and treatment of Indian families and for the temporary custody of Indian children with the goal of strengthening Indian families and preventing parent-child separations;

(3) Family assistance, including homemaker and home counselors, protective day care and afterschool care, recreational activities, respite care, and employment support services with the goal of strengthening Indian families and contributing to family stability;

(4) Home improvement programs with the primary emphasis on preventing the removal of children due to unsafe home environments by making homes safer, but not to make extensive structural home improvements;

(5) The employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters, but not to establish tribal court systems;

(6) Education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) A subsidy program under which Indian adoptive children not eligible for state or BIA subsidy programs may be provided support comparable to that for which they could be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs;

(8) Guidance, legal representation and advice to Indian families involved in tribal, state, or Federal child custody proceedings; and

(9) Other programs designed to meet the intent and purposes of the Act.

(b) Grants may be provided to tribes in the preparation and implementation of child welfare codes within their jurisdiction or pursuant to a tribal-state agreement.

(c) Grantees under this subpart may enhance their capabilities by utilizing ICWA funds as non-Federal matching shares in connection with funds provided under titles IV–B, IV–E and XX of the Social Security Act or other Federal programs which contribute to and promote the intent and purposes of the Act through the provision of comprehensive child and family services in coordination with other tribal, Federal, state, and local resources available for the same purpose.

(d) Program income resulting from the operation of programs under this subpart, such as day care operations, may be retained and used for purposes similar to those for which the grant was awarded.

§ 23.23 Tribal government application contents.

(a) The appropriate Area Director shall, subject to the tribe's fulfillment of the mandatory application requirements and the availability of appropriated funds, make a grant to the tribal governing body of a tribe or consortium of tribes eligible to apply for a grant under this subpart.

(b) The following mandatory tribal application requirements must be submitted to the appropriate Agency Superintendent or Area Director in accordance with the timeframe established in § 23.21 (b) of this subpart:

(1) A current tribal resolution requesting a grant by the Indian tribe(s) to be served by the grant. If an applicant is applying for a grant benefiting more than one tribe (consortium), an authorizing resolution from each tribal government to be served must be included. The request must be in the form of a current tribal resolution by the tribal governing body and shall include the following information:

(i) The official name of tribe(s) applying for the grant and who will directly benefit from or receive services from the grant;

(ii) The proposed beginning and ending dates of the grant;

(iii) A provision stating that the resolution will remain in effect for the duration of the program or until the resolution expires or is rescinded; and

(iv) The signature of the authorized representative of the tribal government and the date thereof.

(2) A completed Application for Federal Assistance form, SF–424.

(3) A narrative needs assessment of the social problems or issues affecting the resident Indian population to be served; the geographic area(s) to be served; and estimated number of resident Indian families and/or persons to receive benefits or services from the program.

(4) A comprehensive developmental multi-year plan in narrative form describing what specific services and/or activities will be provided each program year and addressing the above-identified social problems or issues. At a minimum, the plan must include:

(i) The program goals and objectives, stated in measurable terms, to be achieved through the grant;

(ii) A narrative description of how Indian families and communities will benefit from the program; and

(iii) The methodology, including culturally defined approaches, and procedures by which the tribe(s) will accomplish the identified goals and objectives.

(5) An internal monitoring system to measure progress and accomplishments, and to assure that the quality and quantity of actual performance conforms to the requirements of the grant.

(6) A staffing plan that is consistent with the implementation of the above-described program plan of operation

and the procedures necessary for the successful delivery of services.

(i) The plan must include proposed key personnel; their qualifications, training or experience relevant to the services to be provided; responsibilities; Indian preference criteria for employment; and position descriptions.

(ii) In accordance with 25 U.S.C. 3201 *et seq.* (Pub. L. 101–630), title IV, the Indian Child Protection and Family Violence Prevention Act, grantees shall conduct character and background investigations of those personnel identified in that statute. Grantees must initiate character and background investigations of said personnel prior to their actual employment, and complete the investigations in a timely manner.

(7) A program budget and budget narrative justification submitted on an annual basis for the amount of the award and supported by the proposed plan, appropriate program services and activities for the applicable grant year.

(8) Identification of any consultants and/or subgrantees the applicant proposes to employ; a description of the consultant and/or subgrantee services to be rendered; the qualifications and experience in performing the identified services; and the basis for the cost and amount to be paid for such services.

(9) A certification by a licensed accountant that the bookkeeping and accounting procedures which the tribe(s) uses or intends to use meet existing Federal standards for grant management and administration specified at § 23.46.

(10) A system for managing property and recordkeeping which complies with subpart D of 43 CFR part 2 implementing the Privacy Act (5 U.S.C. 552a) and with existing Federal requirements for grants at 25 CFR 276.5 and 276.11, including the maintenance and safeguarding of direct service case records on families and/or individuals served by the grant.

(11) A listing of equipment, facilities, and buildings necessary to carry out the grant program. Liability insurance coverage for buildings and their contents is recommended for grantees under this subpart.

(12) Pursuant to the Drug-Free Workplace Act of 1988, tribal programs shall comply with the mandatory Drug-Free Workplace Certification, a regulatory requirement for Federal grant recipients.

(c) Continued annual funding of an ICWA program under this subpart shall be contingent upon the existing grant program receiving a satisfactory program evaluation from the area social services office for the previous year of operation. A copy of this evaluation must be submitted together with an annual budget and budget narrative justification in accordance with paragraph (b)(7) of this section. Minimum standards for receiving a satisfactory evaluation shall include:

(1) The timely submission of all fiscal and programmatic reports;

(2) A narrative program report indicating work accomplished in accordance with the applicant's approved multi-year plan and, if applicable, a description of any modification in programs or activities to be funded in the next fiscal year; and

(3) The implementation of mutually determined corrective action measures, if applicable.

Subpart D—Grants to Off-Reservation Indian Organizations for Title II Indian Child and Family Service Programs

§ 23.31 Competitive off-reservation grant process.

(a) Grant application procedures and related information may be obtained from the Area Director designated at § 23.11 for processing ICWA notices for the state in which the applicant is located. Pre-award and ongoing technical assistance of off-reservation Indian organization grantees shall be provided in accordance with § 23.42.

(b) Prior to the beginning of or during the applicable year(s) in which grants for off-reservation programs will be awarded competitively, the Assistant Secretary—Indian Affairs shall publish in the **Federal Register** an announcement of the grant application process for the year(s), including program priorities or special considerations (if any), applicant eligibility criteria, the required application contents, the amount of available funding and evaluation criteria for off-reservation programs.

(c) Based on the announcement described in paragraph (b) of this section, an off-reservation applicant shall prepare a multi-year developmental application in accordance with § 23.33 of this subpart. To be considered in the area competitive review and scoring process, a complete application must be received by the deadline announced in the **Federal Register** by the Area Director designated at § 23.11 for processing ICWA notices for the state in which the applicant is located.

(d) Eligibility requirements for off-reservation Indian organizations. The Secretary or his/her designee shall, contingent upon the availability of funds, make a multi-year grant under this subpart for an off-reservation program when officially requested by a resolution of the board of directors of the Indian organization applicant, upon the applicant's fulfillment of the mandatory application requirements and upon the applicant's successful competition pursuant to § 23.33 of this subpart.

(e) A grant under this subpart for an off-reservation Indian organization shall be limited to the board of directors of the Indian organization which will administer the grant.

(f) Continued annual funding of a multi-year grant award to an off-reservation ICWA program under this subpart shall be contingent upon the grantee's fulfillment of the requirements delineated at § 23.33 (e).

(g) Monitoring and program reporting requirements for grants awarded to off-reservation Indian organizations under this subpart are delineated at §§ 23.44 and 23.47.

§ 23.32 Purpose of off-reservation grants.

The Secretary or his/her designee is authorized to make grants to off-reservation Indian organizations to establish and operate off-reservation Indian child and family service programs for the purpose of stabilizing Indian families and tribes, preventing the breakup of Indian families and, in particular, to ensure that the permanent removal of an Indian child from the custody of his/her Indian parent or Indian custodian shall be a last resort. Child and family service programs may include, but are not limited to:

(a) A system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate state standards of support for maintenance and medical needs;

(b) The operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children with the goal of strengthening and stabilizing Indian families;

(c) Family assistance (including homemaker and home counselors), protective day care and afterschool care, employment support services, recreational activities, and respite care with the goal of strengthening Indian families and contributing toward family stability; and

(d) Guidance, legal representation and advice to Indian families involved in state child custody proceedings.

§ 23.33 Competitive off-reservation application contents and application selection criteria.

(a) An application for a competitive multi-year grant under this subpart shall be submitted to the appropriate Area Director prior to or on the announced deadline date published in the **Federal Register**. The Area Director shall certify the application contents pursuant to § 23.34 and forward the application within five working days to the area review committee, composed of members designated by the Area Director, for competitive review and action. Modifications and/or information received after the close of the application period, as announced in the **Federal Register**, shall not be reviewed or considered by the area review committee in the competitive process.

(b) Mandatory application requirements for Indian organization applicants shall include:

(1) An official request for an ICWA grant program from the organization's board of directors covering the duration of the proposed program;

(2) A completed Application for Federal Assistance form, SF 424;

(3) Written assurances that the organization meets the definition of Indian organization at § 23.2;

(4) A copy of the organization's current Articles of Incorporation for the applicable grant years;

(5) Proof of the organization's nonprofit status;

(6) A copy of the organization's IRS tax exemption certificate and IRS employer identification number;

(7) Proof of liability insurance for the applicable grant years; and

(8) Current written assurances that the requirements of Circular A–128 for fiscal management, accounting, and recordkeeping are met.

(9) Pursuant to the Drug-Free Workplace Act of 1988, all grantees under this subpart shall comply with the mandatory Drug-Free Workplace Certification, a regulatory requirement for Federal grant recipients.

(c) *Competitive application selection criteria.* The Area Director or his/her designated representative shall select those proposals which will in his/her judgment best promote the proposes of the Act. Selection shall be made through the area review committee process in which each application will be scored individually and ranked according to score, taking into consideration the mandatory requirements as specified above and the following selection criteria:

(1) The degree to which the application reflects an understanding of the social problems or issues affecting the resident Indian client population which the applicant proposes to serve;

(2) Whether the applicant presents a narrative needs assessment, quantitative data and demographics of the client Indian population to be served;

(3) Estimates of the number of Indian people to receive benefits or services from the program based on available data;

(4) Program goals and objectives to be achieved through the grant;

(5) A comprehensive developmental multi-year narrative plan describing what specific services and/or activities will be provided each program year and addressing the above-identified social problems or issues. At a minimum, the plan must include a narrative description of the program; the program goals and objectives, stated in measurable terms, to be achieved through the grant; and the methodology, including culturally defined approaches, and procedures by which the grantee will accomplish the identified goals and objectives;

(6) An internal monitoring system the grantee will use to measure progress and accomplishments, and to ensure that the quality and quantity of actual performance conforms to the requirements of the grant;

(7) Documentation of the relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing the prevention of Indian family breakups, such as mandatory state services. Factors to be considered in determining accessibility include:

(i) Cultural barriers;

(ii) Discrimination against Indians;

(iii) Inability of potential Indian clientele to pay for services;

(iv) Technical barriers created by existing public or private programs;

(v) Availability of transportation to existing programs;

(vi) Distance between the Indian community to be served under the proposal and the nearest existing programs;

(vii) Quality of services provided to Indian clientele; and

(viii) Relevance of services provided to specific needs of the Indian clientele.

(8) If the proposed program duplicates existing Federal, state, or local child and family service programs emphasizing the prevention of Indian family breakups, proper and current documented evidence that repeated attempts to obtain services have been unsuccessful;

(9) Evidence of substantial support from the Indian community or communities to be served, including but not limited to:

(i) Tribal support evidenced by a tribal resolution or cooperative service agreements between the administrative bodies of the affected tribe(s) and the applicant for the duration of the grant period, or

(ii) Letters of support from social services organizations familiar with the applicant's past work experience;

(10) A staffing plan that is consistent with the implementation of the above-described program plan of operation and the procedures necessary for the successful delivery of services. The plan must include proposed key personnel, their qualifications, training or experience relevant to the services to be provided, responsibilities, Indian preference criteria for employment and position descriptions. In accordance with 25 U.S.C. 3201 et seq. (Pub. L. 101–630), Title IV, the Indian Child Protection and Family Violence Prevention Act, grantees shall conduct character and background investigations of those personnel identified in that statute prior to their actual employment;

(11) The reasonableness and relevance of the estimated overall costs of the proposed program or services and their overall relation to the organization's funding base, activities, and mission;

(12) The degree to which the detailed annual budget and justification for the requested funds are consistent with, and clearly supported by, the proposed plan and by appropriate program services and activities for the applicable grant year;

(13) The applicant's identification of any consultants and/or subgrantees it proposes to employ; description of the services to be rendered; the qualifications and experience of said personnel, reflecting the requirements for performing the identified services; and the basis for the cost and the amount to be paid for such services;

(14) Certification by a licensed accountant that the bookkeeping and accounting procedures that the applicant uses or intends to use meet existing Federal standards for grant administration and management specified at § 23.46;

(15) The compliance of property management and recordkeeping systems with subpart D of 43 CFR part 2 (the Privacy Act, 5 U.S.C. 552a), and with existing Federal requirements for grants at 25 CFR 276.5 and 276.11, including the maintenance and safeguarding of direct service case records on families and/or individuals served by the grant;

(16) A description of the proposed facilities, equipment, and buildings

necessary to carry out the grant activities; and

(17) Proof of liability insurance coverage for the applicable grant year(s).

(d) Two or more applications receiving the same competitive score will be prioritized in accordance with announcements made in the **Federal Register** pursuant to § 23.31 (b) for the applicable year(s).

(e) Continued annual funding of a multi-year grant award to an off-reservation ICWA program under this subpart shall be contingent upon the availability of appropriated funds and upon the existing grant program receiving a satisfactory program evaluation from the area social services office for the previous year of operation. A copy of this evaluation shall be submitted together with an annual budget and budget narrative justification in accordance with paragraph (c) (10) of this section. Minimum standards for receiving a satisfactory evaluation shall include the timely submission of all fiscal and programmatic reports; a narrative program report indicating work accomplished in accordance with the initial approved multi-year plan; and the implementation of mutually determined corrective action measures, if applicable.

§ 23.34 Review and decision on off-reservation applications by Area Director.

(a) *Area office certification.* Upon receipt of an application for a grant by an off-reservation Indian organization at the area office, the Area Director shall:

(1) Complete and sign the area office certification form. In completing the area certification form, the Area Director shall assess and certify whether applications contain and meet all the application requirements specified at § 23.33. Area Directors shall be responsible for the completion of the area office certification forms for all applications submitted by off-reservation Indian organizations.

(2) Acknowledge receipt of the application to the applicant and advise the applicant of the disposition of the application within 10 days of receipt; and

(3) Transmit all applications within five working days of receipt to the area review committee for competitive review and subsequent approval or disapproval of the applications.

(b) *Area office competitive review and decision for off-reservation applications.* Upon receipt of an application for an off-reservation grant under this part requiring the approval of the Area Director, the Area Director shall:

(1) Establish and convene an area review committee, chaired by a person qualified by knowledge, training and experience in the delivery of Indian child and family services.

(2) Review the area office certification form required in paragraph (a) of this section.

(3) Review the application in accordance with the competitive review procedures prescribed in § 23.33. An application shall not receive approval for funding under the area competitive review and scoring process unless a review of the application determines that it:

(i) Contains all the information required in § 23.33 which must be received by the close of the application period. Modifications of the grant application received after the close of the application period shall not be considered in the competitive review process.

(ii) Receives at least the established minimum score in an area competitive review, using the application selection criteria and scoring process set out in § 23.33. The minimum score shall be established by the Central Office prior to each application period and announced in the **Federal Register** for the applicable grants year(s).

(4) Approve or disapprove the application and promptly notify the applicant in writing of the approval or disapproval of the application. If the application is disapproved, the Area Director shall include in the written notice the specific reasons therefore.

(c) The actual funding amounts for the initial grant year shall be subject to appropriations available nationwide and the continued funding of an approved off-reservation grant application under subpart D of this part shall be subject to available funds received by the respective area office for the applicable grant year. Initial funding decisions and subsequent decisions with respect to funding level amounts for all approved grant applications under this part shall be made by the Area Director.

§ 23.35 Deadline for Central Office action.

Within 30 days of the receipt of grant reporting forms from the Area Directors identifying approved and disapproved applications pursuant to subpart D of this part and recommended funding levels for approved applications, the Secretary or his/her designee shall process the Area Directors' funding requests.

Subpart E—General and Uniform Grant Administration Provisions and Requirements

§ 23.41 Uniform grant administration provisions, requirements and applicability.

The general and uniform grant administration provisions and requirements specified at 25 CFR part 276 and under this subpart are applicable to all grants awarded to tribal governments and off-reservation Indian organizations under this part, except to the extent inconsistent with an applicable Federal statute, regulation or OMB circular.

§ 23.42 Technical assistance.

(a) Pre-award and ongoing technical assistance may be requested by an Indian tribe or off-reservation Indian organization from the appropriate agency or area office to which the tribe or organization will be submitting an application for funds under subparts C and D of this part. A request for pre-award technical assistance by an off-reservation Indian organization must be received by the Area Director designated at § 23.11 for the state in which the applicant is located no later than 10 days prior to the application deadline to assure sufficient time for area response.

(b) Pre-award and ongoing technical assistance may be provided by the appropriate BIA agency or area office for purposes of program planning and design, assistance in establishing internal program monitoring and evaluation criteria for ongoing grant administration and management, and for other appropriate assistance requested.

(c) The area social services staff shall provide technical assistance to grantees upon receipt of an authorized request from the grantee or when review of the grantee's quarterly performance reports shows that:

(1) An ICWA program is yielding results that are or will be detrimental to the welfare of the intended Indian beneficiaries of the program;

(2) A program has substantially failed to implement its goals and objectives;

(3) There are serious irregularities in the fiscal management of the grant; or

(4) The grantee is otherwise deficient in its program performance.

(5) Upon receiving an authorized request from the grantee, the area social services staff and/or grants officer shall provide the necessary technical assistance to arrive at mutually determined corrective action measures and their actual implementation, if necessary, and the timeframes within which said corrective actions will be implemented.

§ 23.43 Authority for grant approval and execution.

(a) *Tribal government programs.* The appropriate Agency Superintendent or Area Director may approve a grant application and its subsequent execution under subpart C when the intent, purpose and scope of the application pertains solely to reservations located within the service area jurisdiction of the agency or area office.

(b) *Off-reservation programs.* The appropriate Area Director may approve a grant application and its subsequent execution under subpart D when the intent, purpose and scope of the grant proposal pertains to off-reservation Indian service populations or programs.

§ 23.44 Grant administration and monitoring.

All grantees under this part shall be responsible for managing day-to-day program operations to ensure that program performance goals are being achieved and to ensure compliance with the provisions of the grant award document and other applicable Federal requirements. Unless delegated to the Agency Superintendent, appropriate area office personnel designated by the Area Director shall be responsible for all grant program and fiscal monitoring responsibilities.

§ 23.45 Subgrants.

A tribal government grantee may make a subgrant under subpart C of this part, provided that such subgrants are for the purpose for which the grant was made and that the grantee retains administrative and financial responsibility over the activity and the funds.

§ 23.46 Financial management, internal and external controls and other assurances.

Grantee financial management systems shall comply with the following standards for accurate, current and complete disclosure of financial activities.

(a) OMB Circular A–87 (Cost principles for state and local governments and federally recognized Indian tribal governments).

(b) OMB Circular A–102 (Common rule 43 CFR part 12).

(c) OMB Circular A–128 (Single Audit Act).

(d) OMB Circular A–110 or 122 (Cost principles for non-profit organizations and tribal organizations, where applicable).

(e) *Internal control.* Effective control and accountability must be maintained for all grants. Grantees must adequately safeguard any property and must ensure that it is used solely for authorized purposes.

(f) *Budget control.* Actual expenditures must be compared with budgeted amounts for the grant. Financial information must be related to program performance requirements.

(g) *Source documentation.* Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, grant documents, or other information required by the grantee's financial management system. The Secretary or his/her designee may review the adequacy of the financial management system of an Indian tribe(s) or off-reservation Indian organization applying for a grant under this part.

(h) Pursuant to 18 U.S.C. 641, whoever embezzles, steals, purloins, or knowingly converts to his or her use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or whoever receives, conceals, or retains the same with intent to convert it to his or her use or gain, knowing it to have been embezzled, stolen, purloined, or converted shall be fined not more than $10,000 or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100, he or she shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 23.47 Reports and availability of information to Indians.

(a) Any tribal government or off-reservation Indian organization receiving a grant under this part shall make general programmatic information and reports concerning that grant available to the Indian people it serves or represents. Access to this information may be requested in writing and shall be made available within 10 days of receipt of the request. Except as required by title IV of Pub. L. 101–630, the Indian Child Protection and Family Violence Prevention Act, grantees shall hold confidential all information obtained from persons receiving services from the program, and shall not release such information without the individual's written consent. Information may be disclosed in a manner which does not identify or lead to the identification of particular individuals.

(b) Grantees shall submit Standard Form 269 or 269A on a quarterly and an annual basis to report their status of funds by the dates specified in the grant award document.

(c) Grantees shall furnish and submit the following written quarterly and annual program reports by the dates specified in the award document:

(1) Quarterly and annual statistical and narrative program performance reports which shall include, but need not be limited to, the following;

(i) A summary of actual accomplishments and significant activities as related to program objectives established for the grant period;

(ii) The grantee's evaluation of program performance using the internal monitoring system submitted in their application;

(iii) Reports on all significant ICWA direct service grant activities including but not limited to the following information:

(A) Significant title II activities;

(B) Data reflecting numbers of individuals referred for out-of-home placements, number of individuals benefiting from title II services and types of services provided, and

(C) Information and referral activities.

(iv) Child abuse and neglect statistical reports and related information as required by 25 U.S.C. 2434, Pub. L. 99–570, the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986;

(v) A summary of problems encountered or reasons for not meeting established objectives;

(vi) Any deliverable or product required in the grant; and

(vii) Additional pertinent information when appropriate.

(2) The BIA may negotiate for the provision of other grant-related reports not previously identified.

(d) Events may occur between scheduled performance reporting dates which have significant impact on the grant-supported activity. In such cases, the grantee must inform the awarding agency as soon as problems, delays, adverse conditions, or serious incidents giving rise to liability become known and which will materially impair its ability to meet the objectives of the grant.

§ 23.48 Matching shares and agreements.

(a) Grant funds provided to Indian tribes under subpart C of this part may be used as non-Federal matching shares in connection with funds provided under titles IV-B, IV-E and XX of the Social Security Act or such other Federal programs which contribute to and promote the purposes of the Act as specified in §§ 23.3 and 23.22 (25 U.S.C. 1931).

(b) Pursuant to 25 U.S.C. 1933, in furtherance of the establishment, operation, and funding of programs funded under subparts C and D of this part, the Secretary may enter into agreements with the Secretary of Health and Human Services. The latter Secretary is authorized by the Act to use funds appropriated for the Department of Health and Human Services for programs similar to those funded under subparts C and D of this part (25 U.S.C. 1931 and 1932), provided that authority to make payment pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

§ 23.49 Fair and uniform provision of services.

(a) Grants awarded under this part shall include provisions assuring compliance with the Indian Civil Rights Act; prohibiting discriminatory distinctions among eligible Indian beneficiaries; and assuring the fair and uniform provision by the grantees of the services and assistance they provide to eligible Indian beneficiaries under such grants. Such procedures must include criteria by which eligible Indian beneficiaries will receive services, recordkeeping mechanisms adequate to verify the fairness and uniformity of services in cases of formal complaints, and an explanation of what rights will be afforded an individual pending the resolution of a complaint.

(b) Indian beneficiaries of the services to be rendered under a grant shall be afforded access to administrative or judicial bodies empowered to adjudicate complaints, claims, or grievances brought by such Indian beneficiaries against the grantee arising out of the performance of the grant.

§ 23.50 Service eligibility.

(a) Tribal government Indian child and family service programs. Any person meeting the definition of Indian, Indian child, Indian custodian, or Indian parent of any unmarried person under the age of 18 as defined in § 23.2 is eligible for services provided under 25 U.S.C. 1931 of the Act. Tribal membership status shall be determined by tribal law, ordinance, or custom. The tribe may, under subpart C, extend services to nontribal family members related by marriage to tribal members, provided such services promote the intent and purposes of the Act. A tribe may also, within available resources, extend services under this part to individuals who are members of, or are eligible for membership in other Indian tribes, and who reside within the tribe's designated service area.

(b) Off-reservation Indian child and family service programs and agreements with the Secretary of Health and Human Services pursuant to 25 U.S.C. 1933. For purposes of eligibility for services provided under 25 U.S.C. 1932 and 1933 of the Act, any person meeting the definition of Indian, Indian child, Indian custodian, or Indian parent of any unmarried person under the age of 18 as defined in § 23.2, or the definition of Indian as defined in 25 U.S.C. 1603(c), shall be eligible for services. Tribal membership status shall be determined by tribal law, ordinance, or custom.

§ 23.51 Grant carry-over authority.

Unless restricted by appropriation, and contingent upon satisfactory program evaluations from the appropriate area or agency office for an existing program, grantees are authorized to carry over unliquidated grant funds which remain at the end of a budget period. Such funds may be carried over for a maximum period of two years beyond the initial grant funding period and must be utilized only for the intent, purpose and scope of the original grant. These carry-over grant funds shall not be reprogrammed into other appropriation activities or subactivities. Funds carried over into another fiscal year will be added to the grantee's new fiscal year funding amount.

§ 23.52 Grant suspension.

(a) When a grantee has materially failed to comply and remains out of compliance with the terms and conditions of the grant, the grants officer may, after reasonable notice to the grantee and the provision of requested technical assistance, suspend the grant. The notice preceding the suspension shall include the effective date of the suspension, the corrective measures necessary for reinstatement of the grant and, if there is no immediate threat to safety, a reasonable timeframe for corrective action prior to actual suspension.

(b) No obligation incurred by the grantee during the period of suspension shall be allowable under the suspended grant, except that the grants officer may at his/her discretion allow necessary and proper costs which the grantee could not reasonably avoid during the period of suspension if such costs would otherwise be allowable under the applicable cost principles.

(c) Appropriate adjustments to the payments under the suspended grant will be made either by withholding the payments or by not allowing the grantee credit for disbursements which the grantee may make in liquidation of unauthorized obligations the grantee incurs during the period of suspension.

(d) Suspension shall remain in effect until the grantee has taken corrective action to the satisfaction of the grants officer, or given assurances satisfactory to the grants officer that corrective action will be taken, or until the grants officer cancels the grant.

§ 23.53 Cancellation.

(a) The grants officer may cancel any grant, in whole or in part, at any time before the date of completion whenever it is determined that the grantee has:

(1) Materially failed to comply with the terms and conditions of the grant;

(2) Violated the rights as specified in § 23.49 or endangered the health, safety, or welfare of any person; or

(3) Been grossly negligent in, or has mismanaged the handling or use of funds provided under the grant.

(b) When it appears that cancellation of the grant will become necessary, the grants officer shall promptly notify the grantee in writing of this possibility. This written notice shall advise the grantee of the reason for the possible cancellation and the corrective action necessary to avoid cancellation. The grants officer shall also offer, and shall provide, if requested by the grantee, any technical assistance which may be required to effect the corrective action. The grantee shall have 60 days in which to effect this corrective action before the grants officer provides notice of intent to cancel the grant as provided for in paragraph (c) of this section.

(c) Upon deciding to cancel for cause, the grants officer shall promptly notify the grantee in writing of that decision, the reason for the cancellation, and the effective date. The Area Director or his/her designated official shall also provide a hearing for the grantee before cancellation. However, the grants officer may immediately cancel the grant, upon notice to the grantee, if the grants officer determines that continuance of the grant poses an immediate threat to safety. In this event, the Area Director or his/her designated official shall provide a hearing for the grantee within 10 days of the cancellation.

(d) The hearing referred to in paragraph (c) of this section shall be conducted as follows:

(1) The grantee affected shall be notified, in writing, at least 10 days before the hearing. The notice should give the date, time, place, and purpose of the hearing.

(2) A written record of the hearing shall be made. The record shall include

written statements submitted at the hearing or within five days following the hearing.

Subpart F—Appeals

§ 23.61 Appeals from decision or action by Agency Superintendent, Area Director or Grants Officer.

A grantee or prospective applicant may appeal any decision made or action taken by the Agency Superintendent, Area Director, or grants officer under subparts C or E of this part. Such an appeal shall be made to the Assistant Secretary who shall consider the appeal in accordance with 25 CFR 2.20 (c) through (e). Appeal procedures shall be as set out in part 2 of this chapter.

§ 23.62 Appeals from decision or action by Area Director under subpart D.

A grantee or applicant may appeal any decision made or action taken by the Area Director under subpart D that is alleged to be in violation of the U.S. Constitution, Federal statutes, or the regulations of this part. These appeals shall be filed with the Interior Board of Indian Appeals in accordance with 25 CFR 2.4 (e); 43 CFR 4.310 through 4.318 and 43 CFR 4.330 through 4.340. However, an applicant may not appeal a score assigned to its application or the amount of grant funds awarded.

§ 23.63 Appeals from inaction of official.

A person or persons whose interests are adversely affected, or whose ability to protect such interests is impeded by the failure of an official to act on a request to the official, may make the official's inaction the subject of an appeal under part 2 of this chapter.

Subpart G—Administrative Provisions

§ 23.71 Recordkeeping and information availability.

(a) (1) Any state court entering a final decree or adoptive order for any Indian child shall provide the Secretary or his/her designee within 30 days a copy of said decree or order, together with any information necessary to show:

(i) The Indian child's name, birthdate and tribal affiliation, pursuant to 25 U.S.C. 1951;

(ii) Names and addresses of the biological parents and the adoptive parents; and

(iii) Identity of any agency having relevant information relating to said adoptive placement.

(2) To assure and maintain confidentiality where the biological parent(s) have by affidavit requested that their identity remain confidential, a copy of such affidavit shall be provided to the Secretary or his/her designee. Information provided pursuant to 25 U.S.C. 1951(a) is not subject to the Freedom of Information Act (5 U.S.C. 552), as amended. The Secretary or his/her designee shall ensure that the confidentiality of such information is maintained. The address for transmittal of information required by 25 U.S.C. 1951(a) is: Chief, Division of Social Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 310–SIB, Washington, DC 20240. The envelope containing all such information should be marked "Confidential." This address shall be sent to the highest court of appeal, the Attorney General and the Governor of each state. In some states, a state agency has been designated to be repository for all state court adoption information. Where such a system is operative, that agency may assume reporting responsibilities for the purposes of the Act.

(b) The Division of Social Services, Bureau of Indian Affairs, is authorized to receive all information and to maintain a central file on all state Indian adoptions. This file shall be confidential and only designated persons shall have access to it. Upon the request of an adopted Indian individual over the age of 18, the adoptive or foster parents of an Indian child, or an Indian tribe, the Division of Social Services shall disclose such information as may be necessary for purposes of tribal enrollment or determining any rights or benefits associated with tribal membership, except the names of the biological parents where an affidavit of confidentiality has been filed, to those persons eligible under the Act to request such information. The chief tribal enrollment officer of the BIA is authorized to disclose enrollment information relating to an adopted Indian child where the biological parents have by affidavit requested anonymity. In such cases, the chief tribal enrollment officer shall certify the child's tribe, and, where the information warrants, that the child's parentage and other circumstances entitle the child to enrollment consideration under the criteria established by the tribe.

Subpart H—Assistance to State Courts

§ 23.81 Assistance in identifying witnesses.

Upon the request of a party in an involuntary Indian child custody proceeding or of a court, the Secretary or his/her designee shall assist in identifying qualified expert witnesses. Such requests for assistance shall be sent to the Area Director designated in § 23.11(c). The BIA is not obligated to pay for the services of such expert witnesses.

§ 23.82 Assistance in identifying language interpreters.

Upon the request of a party in an Indian child custody proceeding or of a court, the Secretary or his/her designee shall assist in identifying language interpreters. Such requests for assistance should be sent to the Area Director designated in § 23.11(c). The BIA is not obligated to pay for the services of such language interpreters.

§ 23.83 Assistance in locating biological parents of Indian child after termination of adoption.

Upon the request of a child placement agency, the court or an Indian tribe, the Secretary or his/her designee shall assist in locating the biological parents or prior Indian custodians of an adopted Indian child whose adoption has been terminated pursuant to 25 U.S.C. 1914. Such requests for assistance should be sent to the Area Director designated in § 23.11(c).

Marshall M. Cutsforth,

Acting Assistant Secretary—Indian Affairs

[FR Doc. 94–570 Filed 1–12–94; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
January 13, 1994

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary

NOFA for the Operating Assistance and Capital Improvement Loan Components of the Flexible Subsidy Program for FY 1994

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–94–3692; FR–3601–N–01]

NOFA for the Operating Assistance and Capital Improvement Loan Components of the Flexible Subsidy Program for FY 1994

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Fund Availability (NOFA) for Fiscal Year 1994.

SUMMARY: This notice announces HUD's funding for the Operating Assistance and Capital Improvement Loan components of the Flexible Subsidy Program for Fiscal Year 1994. This document includes information concerning the following:

(a) The purpose of the NOFA and information regarding eligibility, available amounts, and selection criteria;

(b) Application processing, including how to apply and how selections will be made; and

(c) A checklist of steps and exhibits involved in the application process.

DATES: The due date for submission of applications by project owners in response to this NOFA is February 28, 1994. Application materials may be obtained from the local HUD Field Office.

Applications must be physically received by the applicable HUD Field Office Loan Management Branch on the due date by 4 p.m., local time. Please see the Application Process section of this NOFA (Section II) for further information on what constitutes proper submission of an application.

The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is not received on or before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR FURTHER INFORMATION CONTACT: Program Support Branch, Office of Multifamily Housing Management, 451 Seventh Street SW., Washington DC 20410, telephone (202) 708–2654 (voice) or (202) 708–3938 (TDD for hearing-impaired). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Statement

The Office of Management and Budget has approved the use of the Flexible Subsidy forms under OMB control number 2502–0395.

I. Purpose and Substantive Description:

A. Statutory Authority

Sec. 201, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

B. Flexible Subsidy Program

1. Authorizing Legislation

Section 201 of the Housing and Community Development Amendments of 1978 (HCDA) created the Flexible Subsidy Program to provide Operating Assistance to eligible projects experiencing financial difficulty. Operating Assistance is provided in the form of a deferred loan and, in conjunction with other resources, is designed to restore or maintain the physical and financial soundness of eligible projects. The 1983 amendments to section 201 of the HCDA expanded the universe of eligible projects and clarified that a project need not have an FHA-insured mortgage to be eligible for Flexible Subsidy assistance (e.g., a non-insured section 236 project is eligible).

The 1987 amendments to section 201 of the HCDA created a new category of assistance to be provided under the Flexible Subsidy Program for projects that needed capital improvements to achieve physical soundness that cannot be funded from project reserve funds without jeopardizing other major repairs or replacements that are reasonably expected to be required in the near future.

Sections 405 and 406 of the Housing and Community Development Act of 1992 (Pub.L. 102–550, approved October 28, 1992) (1992 Act) further amended section 201 of the HCDA. The amendments made to section 201 by the 1992 Act were discussed in detail in the proposed rule published on June 25, 1993 (58 FR 34506). That rule proposed to amend HUD's Flexible Subsidy regulations at 24 CFR part 219 to bring these regulations into conformity with the changes made to the Flexible Subsidy Program by the 1992 Act. The changes to the Flexible Subsidy Program made by the 1992 Act also were discussed and incorporated in the FY 1993 Flexible Subsidy NOFA published on June 7, 1993 (58 FR 32022). The proposed amendments to 24 CFR part 219 published on June 25, 1993 were adopted by a final rule published on December 6, 1993 (58 FR 64138).

2. Assurance of Support of Preservation Efforts

This notice assures support of preservation efforts by providing for a set-aside of $20.0 million for Flexible Subsidy Capital Improvement funding to insured projects that are eligible to receive incentives in exchange for extending the low-to moderate-income use of the projects under plans of action approved in accordance with 24 CFR part 248.

The $20.0 million set-aside will be made available under a separate notice of fund availability. The remainder of the Flexible Subsidy Fund is made available under this NOFA for the award of funds to eligible projects in accordance with the priorities specified in this NOFA.

C. Allocation Amounts

1. Total Available Funding for FY 1994

The Flexible Subsidy Fund is comprised of excess rental receipts paid to HUD from owners of section 236 projects, interest earned on the fund, repayment of Operating Assistance loans made by HUD in past fiscal years, and amounts appropriated by the Congress, if any, to carry out the purposes of the Flexible Subsidy Program.

The Capital Improvement Loan portion of the program is required by statute to be funded at a minimum level of $30.0 million or 40 percent of the amount in the Flexible Subsidy Fund, whichever is less. Any of that amount not used for loans under that program before the last 60 days of a fiscal year shall become available for Operating Assistance loans. This year, $30.0 million is less than 40 percent of the fund, and therefore, is the amount designated for Capital Improvement Loans.

Funding availability for Fiscal Year 1994 is estimated as follows:

FY 1994 Appropriation	$35,747,000
Estimated Offsetting Collections	76,916,000
Carryover of Unreserved 1993 Funds	7,839,534
Estimated Available Funds—Fiscal Year 1994	120,502,534
Less: Set-aside for capital improvements for insured projects with incentives under part 248 (available under a separate funding action)	20,000,000
Net Available Funds under this NOFA	100,502,534

Amount of Available Funds segregated for Capital Improvement Loans under this NOFA	10,000,000
Amount of Available Funds set aside for the Operating Assistance component	90,502,534

2. Distribution of Funds—Regional Allocation

For FY 1994, HUD is distributing the Flexible Subsidy funds under this NOFA to each of its ten Regional Offices on the basis of a formula allocation. The formula takes into consideration the number of potentially eligible projects in each region and the extent of the troubled project inventory.

Flexible Subsidy funds available under this NOFA are distributed to the ten Regional Offices in accordance with the following schedule:

HUD region	Operating assistance	Capital improvement loan
Region I	7,240,203	800,000
Region II	4,525,127	500,000
Region III	9,050,253	1,000,000
Region IV	15,385,431	1,700,000
Region V	19,910,558	2,200,000
Region VI	9,955,279	1,100,000
Region VII	5,430,152	600,000
Region VIII	3,620,101	400,000
Region IX	11,765,329	1,300,000
Region X	3,620,101	400,000
Totals	90,502,534	10,000,000

The Regional Offices will make awards under this NOFA in accordance with the selection criteria and procedures described in this NOFA.

3. Emergency Assistance

The Secretary may, at his discretion, waive the NOFA requirements set out in section 102(a)(1), (2) and (3) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) and approve the award of Flexible Subsidy assistance for appropriate response to an emergency, *e.g.*, hurricane, flood, *etc.*, as provided for by section 102(a)(5) of said Act in cases where the NOFA process would be too time-consuming to get the assistance to the projects in need.

D. Eligibility

1. Types of Projects

The following types of rental or cooperative housing are eligible for Flexible Subsidy assistance:

a. A project assisted under the section 236 interest reduction program, including State Agency non-insured projects, the section 221(d)(5) program (commonly known as the 221(d)(3) Below Market Interest Rate Program), or the Rent Supplement Program.

b. A project that was constructed more than 15 years before assistance is to be provided under the Flexible Subsidy Program with a direct loan under the section 202 Program for Housing for the Elderly or the Disabled.

c. A project assisted under section 23 of the 1937 Act as in effect immediately before January 1, 1975, that is ineligible for assistance under the modernization program operated under the 1937 Act.

d. A project assisted under the Section 8 Housing Assistance Payments Program after conversion from assistance under the section 236 Rental Assistance Payments Program or the Rent Supplement Program.

e. A project that met the criteria in item a or b above before acquisition by HUD, and that has been sold by HUD subject to a mortgage insured or held by HUD and subject to an agreement which provides that the low- and moderate-income character of the project will be maintained. An application for Flexible Subsidy assistance for a project in this category must be received by HUD within three years of the date of the sale of the project by HUD.

2. Conditions for Assistance

Flexible Subsidy assistance will be made available in accordance with the conditions imposed by section 201 of HCDA, as amended by the 1992 Act. Accordingly, assistance under this NOFA can be provided only if the following conditions are determined to exist:

a. The assistance is necessary, when considered with other resources available to the project, to restore or maintain the financial or physical soundness of the project; and to preserve the low- and moderate-income character of the project.

b. The owner has agreed to maintain the low- and moderate-income character of the project for a period at least equal to the remaining term of the project mortgage. This constitutes the minimum period for low-income affordability restriction. As authorized by the 1992 Act, HUD, at its discretion, may extend this period of restriction to the remaining useful life of the housing.

c. The assistance will be less costly to the Federal Government over the useful life of the project than other reasonable alternatives of preserving the occupancy character of the project.

d. The project owner, and any mortgagor of a project that does not have an FHA-insured mortgage, has provided or agreed to provide the required owner contribution.

e. The project is or can reasonably be made structurally sound, as determined in accordance with an on-site inspection.

f. All reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents.

g. There is a feasible plan to involve the residents in project decisions as demonstrated through documentation submitted to HUD.

h. The project is operated competently and has complied with all regulatory and administrative requirements, as determined by HUD in a management review.

i. Project management is in accordance with any management improvement and operating (MIO) plan approved by HUD for the project.[1]

j. The Affirmative Fair Housing Marketing plan meets applicable requirements.

k. The owner certifies that he/she will comply with all applicable equal opportunity statutes.

l. The project is not receiving financial assistance under the ELIHPA or the LIHPRHA.

m. In the case of an application for a Capital Improvement Loan, the owner has funded the reserve for replacements in accordance with HUD requirements, and yet the reserve (and any other project funds available to fund the reserve) is insufficient to finance both the capital improvements for which assistance is being requested, and other capital improvements that are reasonably expected to be required within the next 24 months.

3. Owner Contribution

a. *Limited dividend and profit-motivated.* These types of owners who seek Operating Assistance must make a minimum financial contribution of 25 percent of the amount needed to render the project financially and physically sound. If seeking a Capital Improvement Loan, the owner must contribute 25 percent of the total estimated cost of the capital improvements involved. In addition, a profit-motivated owner or an owner of a limited-dividend project seeking Operating Assistance under the Flexible Subsidy Program must agree to waive the right to pay distributions while any portion of the Operating Assistance loan is outstanding.

[1] Under HUD's Flexible Subsidy Program, the MIO Plan consists of two parts—Part I and Part II. The components of both parts are discussed in Section III.A.1.a. and 1.b of this NOFA, 24 CFR 219.210, and in sections 5–3 and 5–4 of HUD Handbook 4355.1, REV–1, Flexible Subsidy. Unless specific reference is made in this NOFA to either Part I or Part II, reference simply to the MIO Plan is intended to refer to both parts.

b. *Non-profit.* The owner or sponsor of a non-profit rental or non-profit cooperative project seeking Operating Assistance must make a contribution toward the total amount needed. However, if HUD determines that neither the owner (mortgagor) nor the sponsor has the financial capacity to make a cash contribution, HUD may permit the non-profit owner to contribute to the project in the form of services. If seeking a capital improvement loan, a non-profit owner, other than a cooperative association, is exempt from providing a contribution. Owners of cooperative projects are not exempt and must contribute 25 percent of the total estimated cost of the capital improvements involved.

c. *Source of contribution.* In no instance may the owner contribution be taken from project income. Also, cash that was previously agreed to be contributed as a condition for approval of purchase of the project (i.e., transfer of physical assets (TPA)) may not be considered for this purpose unless a finding is made that the additional work and cost required were not anticipated or deemed necessary at the time of HUD's preliminary approval of the TPA and preliminary approval of the TPA was received not later than 36 months prior to the Flexible Subsidy application. However, cash contributions made by the owner within 36 months before the Flexible Subsidy application, from sources other than project income, may be considered.

In the case of a Capital Improvement Loan, and in accordance with the amendments made to section 201 of the HCDA by section 405(e) of the 1992 Act, when an owner has spent its own money, to attempt to repair capital items within the 36 months before the application, and the repair was unsuccessful and has resulted in a need for a replacement (to be funded by a Capital Improvement Loan), that expenditure will be considered for credit for purposes of meeting the contribution requirement.

In addition to the required owner contribution, other non-federal sources of funding must be pursued aggressively. These include grants or loans from State or local governments, e.g., community development block grants. Note that the infusion of funding from non-Federal sources does not eliminate or reduce the requirement for an owner contribution of 25 percent.

4. Special Eligibility Limits

A project owner may request and receive Flexible Subsidy more than once during the term of the mortgage. However, a repair or replacement item is eligible for Operating Assistance only if no previous payment of HUD-related assistance has been made (e.g., previous Operating Assistance, Housing Development Grant or Community Development Block Grant) for that particular repair or replacement item. A repair or replacement item is eligible for a Capital Improvement Loan to a project owner who has previously received Flexible Subsidy assistance only if the capital items which are the subject of the application have reached the end of their useful life.

A repair or replacement included as an action item on the Form HUD–9835 (project improvement program) and made by the owner on an emergency basis before execution of the Flexible Subsidy contract may be funded with Operating Assistance only if the owner received advance approval from the HUD Field Office to proceed with the emergency repair.

E. Selection Criteria and Funding Priorities

1. Field Review

Each application for Operating Assistance and/or a Capital Improvement Loan will be reviewed by the HUD Field Office having jurisdiction over the project in question. Field Offices will recommend applications for funding to the HUD Regional Office.

2. Funding Priorities Established by the 1992 Act

Funding will be awarded within each component of the Flexible Subsidy Program (Operating Assistance and Capital Improvement Loans) to applications in the category order as specified below under this paragraph 2.

Category 1. Insured projects, designated as troubled by the HUD Field Office, for which half or more of the MIO dollar amount (for Operating Assistance) or Capital Improvement amount is designated for emergency health and safety problems which, if allowed to continue, could present an imminent threat to the life, health, and safety of project residents. Assistance is limited to those projects with emergency problems that are of such a magnitude that:

(a) They cannot be mitigated at a cost that can be in any way absorbed within the operating budget; and

(b) Their continuation could potentially result in tenant displacement.

Accounts payable included in the MIO Plan for operating assistance may be considered "emergency" only to the extent that they directly relate to vital services provided to the project (e.g., utility payables). (Examples of emergency health and safety problems involving possible capital improvements that may be included in this category are broken heating systems, leaking gas stoves and falling balconies.)

Category 2. Insured projects, designated by the HUD Field Office as troubled with serious financial and physical problems, whose sponsors do not have the necessary funds available to cure the immediate problems and in which the income stream cannot be sufficiently improved to meet the project's expenses without first correcting its physical problems.

Category 3. HUD-held projects and projects assisted under section 202 of the HCDA, designated by the HUD Field Office as troubled for which half or more of the MIO dollar amount (for Operating Assistance) or Capital Improvement amount is designated for emergency health and safety problems which, if allowed to continue, could present an imminent threat to the life, health, and safety of project residents. Assistance is limited to those projects with emergency problems that are of such a magnitude that (a) they cannot be mitigated at a cost that can be in any way absorbed within the operating budget; and (b) their continuation could potentially result in tenant displacement.

Category 4. HUD-held projects and projects assisted under section 202 of the HCDA, designated by the HUD-Field Office as troubled, with serious financial and physical problems, which do not have available necessary funds to cure the immediate problems, and in which the income stream cannot be sufficiently improved to meet the project's expenses without first correcting its physical problems.

Category 5. State Agency non-insured projects designated as troubled with emergency problems presenting an imminent threat to the life, health and safety of tenants shall be funded first in this category, and troubled projects with serious financial and physical problems, where the owner has insufficient income and cannot improve the income stream to address the problems, shall be funded next.

Category 6. State Agency owned projects designated as troubled with emergency problems presenting an imminent threat to the life, health and safety of tenants shall be funded first in this category, and troubled projects with serious financial and physical problems, where the owner has insufficient income and cannot improve the income

stream to address the problems, shall be funded next.

3. Funding Eligible Projects Within the Priority Categories

The above categories represent the order of priority that each HUD Regional Office will implement to fund eligible projects seeking assistance under the Operating Assistance and Capital Improvement Loan components of the Flexible Subsidy Program. All projects in a given category will be funded prior to projects in succeeding categories. When available funds are insufficient to fund all projects within a given category, to the extent of available funds, projects in that category will be funded in accordance with their rank. Projects in succeeding categories will not be funded. Scoring and ranking of projects will be based on the following considerations.

The financial distress of a project will be assessed to determine which projects within each funding category are most in need. The severity of a project's financial condition and its ability to meet short-term operating needs and obligations, including debt service payments, will be measured by HUD, using financial data contained in the project's most recently audited balance sheet and statement of profit and loss.

In assessing financial distress, HUD will use the following ratios, awarding a maximum of 15 points for each ratio. Projects with poor financial ratios (e.g., income/expense ratios with a negative value) will be assigned higher point scores than projects with break-even or positive income/expense ratios from operations.

1. Income/Expense Ratio defined as follows:

$$\frac{\text{Total Revenue}}{\text{Total Cost of Operation before Depreciation}}$$

2. Debt Service Coverage Ratio defined as follows:

$$\frac{\text{Net Profit/Loss Before Depreciation PLUS Interest Payments MINUS Reserve Payments Made}}{\text{Level Annuity Monthly Payments TIMES 12 PLUS MIP or Service Charge}}$$

Up to an additional 15 points will be assigned to those applications where the project serves as a residence for low-income families, and HUD determines that other suitable housing is unavailable for such families in the area in which the project is located. Up to an additional 15 points will be assigned for applicants, other than owners of cooperatives, submitting documented evidence that there exist or will exist significant opportunities for residents to be involved in management and/or participate in the ownership of the project.

F. Other Loan Terms and Conditions

1. Operating Assistance

Operating Assistance may be used to correct physical deficiencies which have resulted from deferral of regularly scheduled maintenance and repairs, financial deficiencies that have accrued as a result of prior years' operating deficits, and operating deficits which will accrue during the assistance year.

Project deficiencies which require capital improvements are eligible for Operating Assistance only if they are necessary to meet local building codes or to maintain the project in a decent, safe and sanitary condition, and it is determined that Operating Assistance is the most efficient method of funding the improvements. Operating Assistance may not be used to repair or replace items that have already received HUD-related assistance; provide major new improvements; or to make repairs needed due to an owner's failure to honor a commitment in a TPA or Workout Agreement.

Operating Assistance is provided as a deferred loan with an interest rate of one percent per annum and no maturity date. In general, repayment in full is required when the term of the mortgage expires, the mortgage insurance terminates, or a TPA is approved by HUD. Owners may not pay distributions as long as the Operating Assistance loan is outstanding. However, owners do retain the right to accrue distributions and may pay them from surplus cash after the Operating Assistance loan is repaid.

2. Capital Improvement Loan

Repair items eligible for funding as a Capital Improvement Loan include any major repair or replacement of building components or other on-site improvements included in allowable costs when the project was built, e.g., sewer laterals, roof structures, ceilings, wall or floor structures, foundations, plumbing, heating, cooling, electrical systems and major equipment, as well as any major repair or replacement of any short-lived building equipment or component before the expiration of its useful life. All capital improvements must be implemented in accordance with HUD's Flexible Subsidy regulations at 24 CFR part 219.125 (Environmental Requirements).

Improvements eligible for funding may also include limited supplements or enhancements to mechanical equipment To The Extent They Are Needed For The Health And Safety Of The Residents (e.g., air conditioning, heating equipment, and building sprinkler systems) where they do not exist; improvements necessary to comply with HUD's standards in 24 CFR part 8 for accessibility to individuals with handicaps; and cost effective energy efficiency improvements. Improvements eligible for funding as a Capital Improvement Loan do not include maintenance of any building components or equipment.

A capital improvement may not be financed partly by Operating Assistance and partly by a Capital Improvement Loan. However, an owner may apply for a Capital Improvement Loan to cover eligible capital improvements and simultaneously apply for Operating Assistance to cover deferred liabilities. Only one application would be required, but it must include all required documents for each program.

Capital Improvement assistance must be provided in the form of an amortizing loan. The interest rate on the loan may not be less than 3 percent nor more than 6 percent unless HUD determines that a lower rate is necessary to maintain

reasonable rental rates. However, in no case may the interest rate be less than 1 percent. The rate is determined taking into consideration the project's ability to absorb the rent increase and the percentage of the tenants receiving rental assistance. Interest on the Capital Improvement Loan starts to accrue and the loan amortization period begins immediately upon full disbursement of loan proceeds.

II. Application and Funding Award Process

A. Obtaining and Preparing Applications

1. Obtaining Applications

Applicants may obtain application materials from the local HUD Field Office.

2. Necessity to Specify Type of Assistance for Which Application is Being Made

An owner may apply for an Operating Assistance Loan only, a Capital Improvement Loan only, or both an Operating Assistance Loan and a Capital Improvement Loan simultaneously in a single application package. The application cover letter must clearly state the type (or types) of loan for which application is being made. Each application will be treated separately under the selection criteria and ranking factors cited in the NOFA.

3. Applying for Both Types of Assistance

If application is being made for both an Operating Assistance Loan and a Capital Improvement Loan simultaneously, with the exception of the Management Objectives, Action Items, and Sources and Uses of Funds (Forms HUD–9835, HUD–9835–A, HUD–9835–B), those documents which are common to both programs may be submitted only once. However, all documents required for each program must be included in the application package.

Two distinct and separate sets of Management Objectives, Action Items, and Sources and Uses of Funds (Forms HUD–9835, HUD–9835–A, HUD–9835–B) are required; taken together they must contain the entire comprehensive plan to correct all project deficiencies. The MIO Plan and Forms HUD–9835 for the Operating Assistance Loan application must contain all items for which funding is being requested under Operating Assistance; the Forms HUD–9835 for the Capital Improvement Loan must contain all items for which funding is being requested under the Capital Improvement Loan program.

In addition, deficiencies, which are to be corrected with funds from sources other than Flexible Subsidy, must be identified on the MIO Plan and Forms HUD–9835 as if Flexible Subsidy assistance were being requested. Note that, if a limited-dividend project is selected for Operating Assistance, the owner must agree to waive his right to pay distributions as long as the Operating Assistance Loan is outstanding.

B. Submitting Applications

1. To ensure consideration for funding under this NOFA, completed applications must be physically received by the HUD Field Office Loan Management Branch before or on the due date by 4 p.m. local time. It is not sufficient for an application to bear a postmark date within the submission time period. The HUD Field Office will date-stamp incoming applications to evidence (timely or late) receipt, and, on request, provide the applicant with an acknowledgement of receipt.

After HUD receives the application, it will perform a physical inspection to assure that the MIO Plan addresses in a comprehensive fashion all the financial and physical deficiencies. HUD also will conduct a comprehensive management review to assure that all management issues are addressed as part of the MIO Plan and project operation and improvement program. HUD may require changes to the MIO Plan as a result of the physical inspection or comprehensive management review.

2. Applications received after the due date and time specified in this NOFA may be considered for funding in FY 1994 only if it is determined that assistance is needed immediately in response to emergency circumstances, and only to the extent that contract authority is available to satisfy the request for assistance.

C. Funding Award Process: Compliance With HUD Reform Act

1. Section 103

In accordance with the requirements of section 103 of the HUD Reform Act and HUD's implementing regulations at 24 CFR part 4, no selection information will be made available to applicants or other persons not authorized to receive this information during the period of HUD review and evaluation of the applications (see also Section VI of this NOFA). However, applicants that are declared ineligible or late will be notified of their ineligibility at the time such determination is made.

The disclosure prohibition of section 103 applies to HUD assistance programs that entail a competition for the distribution of the assistance. Under the Flexible Subsidy Program, if a given HUD Regional Office determines that competition is not necessary for the distribution of funds in a priority category, because there are sufficient funds to award assistance to all eligible projects in that category, then the Regional Office will begin the process of awarding funds to each eligible project in that category.

Noncompetitive individual funding allocations and announcements in a given priority category will be made, as funding determinations are completed, through the HUD Regional or Field Offices after notification to the Congressional delegation. No information regarding any unfunded application or any competition in any other category will be made available to the public. All awards will be disclosed publicly at the conclusion of the entire selection process. These procedures are in accordance with the requirements of section 103.

2. Section 102

Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. The following requirements concerning documentation and public access, disclosures, and subsidy layering determinations are applicable to assistance awarded under this NOFA.

a. *Documentation and public access.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

b. *Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (Form

HUD–2880) submitted in connection with this NOFA. Update reports (also Form HUD–2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

c. *Subsidy-layering determinations.* 24 CFR 12.52 requires HUD to certify that the amount of HUD assistance is not more than is necessary to make the assisted activity feasible after taking into account other government assistance. HUD will make the decision with respect to each certification available to the public free of charge, for a three-year period. (See the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on requesting these decisions.) Requests for additional information about applications, HUD certifications, and assistance adjustments, both before assistance is provided or subsequently, are to be made under the Freedom of Information Act (24 CFR part 15).

D. Coordination of Assistance

Section 405(f) of the 1992 Act requires the coordination of the allocation of Flexible Subsidy assistance with the allocation of assistance made under section 8 of the 1937 Act and section 203 of the HCDA.

Application review and determination for the award of section 8 assistance under the Section 8 Loan Management Set-Aside (LMSA) program will be made during the same time period as the final application review and determinations for the award of Flexible Subsidy assistance. To ensure coordination of assistance under these two programs, HUD will identify those projects seeking assistance under the Flexible Subsidy program which have been approved for the award of LMSA. For those projects so identified, a further review will be made to evaluate the effect of the award of LMSA on the project's cash flow and the enhanced ability of the project to fund MIO repair items from the increased project operating income. By taking into consideration all funding sources, this review will insure that the infusion of Flexible Subsidy assistance together with the LMSA represents the appropriate solution to satisfying the project's need for stabilization of project operations and maintenance or restoration of the project to an acceptable physical and financial condition.

With respect to coordination of assistance under section 203 of the HCDA, HUD does not intend to provide Flexible Subsidy assistance when there exists delinquent indebtedness to the Government, or where a project is either owned by HUD or HUD anticipates foreclosure.

III. Checklist of Application Submission Requirements

A. Operating Assistance Under the Flexible Subsidy Program

The following items must be submitted with an application for Operating Assistance under the Flexible Subsidy Program.

1. Items Pertaining to Project Operation and Improvement.

a. Management Improvement and Operating (MIO) Plan Part I. (Refer to section 5–3 of HUD Handbook 4355.1, Rev-1, Flexible Subsidy, for further discussion of MIO Plan Part I.)

The MIO Plan Part I must include documentation of eligibility and fully address all financial, management, and physical deficiencies of the project. To be included in every MIO Plan are:

(1) A detailed maintenance schedule;

(2) A schedule for correcting past deficiencies in maintenance, repairs, and replacements;

(3) A plan to upgrade the project to meet cost-effective energy efficiency standards approved by HUD;

(4) A plan to improve financial and management control systems;

(5) An updated annual operating budget (Form HUD–92547–A) if the last budget was submitted more than 90 days before; and

(6) A description of cost controls, procedures and savings.

b. MIO Plan Part II— Management Objectives, Action Items, and Sources and Uses of Funds (Forms HUD–9835, HUD–9835–A, HUD–9835–B). (Refer to section 5–4 of HUD Handbook 4355.1, Rev.1, Flexible Subsidy, for further discussion of MIO Plan Part II.)

(1) Management Objectives must be specific, measurable, and must address all management deficiencies including actions which will be performed to improve management and personnel and upgrade tenant services, and provide opportunities for resident involvement in management of the project, as appropriate.

(2) Action Items must address all project deficiencies, including those which are to be corrected using resources other than Flexible Subsidy assistance. Action Items must be written in a manner which specifically describes the scope of the work and provides an estimate of the cost of the work to be performed. In addition, they must be structured so as to be highly visible items for which expenditures and work progress can be easily monitored. For example, if boilers are to be replaced, the description should identify the malfunctioning unit, its age, and its location, e.g., building number, basement/roof. A further explanation should identify the replacement unit, the estimated cost per unit and the labor cost associated with the entire replacement. Failure to provide the requisite comprehensiveness and specificity may adversely affect the funding decision.

All emergency repair Action Items must be clearly identified and must be accompanied by a full and detailed justification as to the reasons the repair should be considered "emergency" in nature, including supporting documentation as appropriate, e.g., fire or building code violations or inspections from local government authorities.

(3) The Sources and Uses of Funds will serve to document how much each source will contribute to the Project Improvement Account in the implementation of the MIO Plan. It must be signed by both the owner and the management agent.

2. Application for Flexible Subsidy Assistance (Form HUD–9826 (2/93)).[2]

3. Budget Worksheet, Income & Expenses Projections (Form HUD–92547 or HUD approved equivalent).

4. All documentation required by HUD Notice H–90–17, Combining Low-Income Housing Tax Credits (LIHTC) with HUD Programs, and by the Notice of Administrative Guidelines to be Applied to Assistance Programs of the Office of Housing, published on April 9, 1991 (56 FR 14436).

5. Anti-lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for Grants Exceeding $100,000; and Disclosure of Lobbying Activities (Standard Form–LLL if warranted. Standard Form–LLL is required if funds other than federally appropriated funds will be or have been used to lobby the Executive or Legislative branches of the Federal

[2] The certification of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the certification of compliance with the equal opportunity and nondiscrimination statutes and regulations, which were listed as individual items under previous Flexible Subsidy NOFAs, are now part of the Application for Flexible Subsidy Assistance.

Government regarding specific contracts, grants, loans or cooperative agreements.

6. Form HUD–2530, Previous Participation Certificate(s) for all principals requiring clearance under these procedures.

7. Affirmative Fair Housing Marketing Plan on Form HUD–935.2.

8. Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

B. Capital Improvement Loan Program (CILP)

The following items must be submitted with an application for a Capital Improvement Loan under the Flexible Subsidy Program.

1. A work write-up and cost estimates listing:

a. the major project components that have failed, or are likely to fail or seriously deteriorate within the next 24 months;

b. capital items that can be upgraded to meet cost-effective energy efficiency standards approved by HUD;

c. supplements or enhancements to mechanical equipment and the extent they are needed for health or safety reasons; and

d. amounts needed to comply with the Department's standards as set forth in 24 CFR part 8, which concern accessibility by individuals with handicaps.

2. Application for Flexible Subsidy Assistance (Form HUD–9826 (2/93)).

3. All documentation required by HUD Notice H–90–17, Combining Low-Income Housing Tax Credits (LIHTC) with HUD Programs, and by the Notice of Administrative Guidelines to be Applied to Assistance Programs of the Office of Housing, published on April 9, 1991 (56 FR 14436).

4. Anti-lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for Grants Exceeding $100,000; and the Disclosure of Lobbying Activities (Standard Form-LLL), if warranted. Standard Form-LLL is required if funds other than federally appropriated funds will be or have been used to lobby the Executive or Legislative branches of the Federal Government regarding specific contracts, grants, loans or cooperative agreements.

5. A Comprehensive Technical Energy Audit. A Comprehensive Technical Energy Audit (CTEA) is required only when either of the below-listed conditions is met. (For guidance on preparation of the CTEA, see Chapter 12 of HUD Handbook 4350.1 REV–1, Multifamily Asset Management and Project Servicing.) When neither of the below-listed conditions is met, an energy analysis that is provided by a local utility company and that contains a measure of cost-effectiveness information is acceptable in meeting this requirement.

a. Implementation of energy conservation measures is a primary purpose of the CILP loan.

b. The cost of energy conservation measures accounts for 50% or more of the proposed CILP loan.

6. MIO Plan Part I. (See item 1.a under Section III.A. of this NOFA.). A MIO Plan Part I for the Capital Improvement Loan Program is required only when one or more of the following conditions exist:

a. The project is in default or was in default at any time during the one-year period preceding the application date.

b. The project received a Below Average or Unsatisfactory rating for Overall Physical Condition or for Maintenance Policies and Practices on the most recent HUD–9822, Physical Inspection Report (unless the owner has since corrected the problems in a manner satisfactory to HUD).

c. The project received a Below Average or Unsatisfactory rating in the Financial Management Section or Overall Management Section on the HUD–9834, Management Review, in the past 24 months (unless the owner has corrected the problems through a substitution of management agent, management personnel, or otherwise, in a manner satisfactory to HUD).

7. MIO Plan Part II, Management Objectives, Action Items, and Sources and Uses of Funds (Forms HUD–9835, HUD–9835–A, HUD–9835–B). (See item 1.b under Section III.A of this NOFA.)

8. A statement outlining the owner's contribution.

9. Form HUD–2530, Previous Participation Certificate(s) for all principals requiring clearance under these procedures.

10. Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

IV. MIO Plan Review

Within 30 days of receipt by HUD from the owner of the MIO Plan Part I, HUD will advise the owner, in writing, whether or not the MIO Plan Part I meets the submission requirements as stated in Section III.A.1.a. of this NOFA. Should HUD fail to inform the owner of its disapproval within the 30-day time-frame, the MIO Plan Part I shall be considered to be approved. If HUD disapproves the MIO Plan Part I, no further consideration will be given to the applicant for award of funds under this NOFA.

V. Corrections to Deficient Applications

HUD will notify an applicant, in writing, shortly after the expiration of the NOFA response deadline of any technical deficiencies in the application. In order to receive further consideration for assistance, the applicant must submit corrections to the Loan Management Branch within 14 calendar days from the postmark date of HUD's letter notifying the applicant of any such deficiencies. Corrections to technical deficiencies will be accepted within the 14 day time limit, but substantive changes or supplements to the application initiated by the applicant will not be accepted.

Applicants will be permitted to correct those deficiencies determined to be technical, (i.e., those that do not change the substance of the application, e.g., a missing certification, or missing signature) or to make changes as required by HUD. Technical deficiencies do not include owner-initiated changes to the MIO Plan or Form HUD–9835. Applicants will be required to cure any such deficiency within 14 days from the date of HUD's written notice to the applicant of the problem(s). Deficiencies determined to be substantive and not made at the direction of HUD may not be corrected.

VI. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this Notice of Fund Availability will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this Notice of Fund Availability will not have a significant impact on family formation, maintenance or well being, and therefore, is not subject to review under the order. The NOFA, insofar as it funds emergency repairs to multifamily housing projects, will assist in preserving decent housing stock for families residing there.

Prohibition Against Lobbying Activities: The Byrd Amendment

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment"), and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000, and applicants for Federal commitments exceeding $150,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC 20410. Telephone: (202) 708–3815 (voice/TDD). This is not a toll-free number. Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition Against Advance Disclosure of Funding Decisions

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 is codified at 24 CFR part 4. HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice/TDD). (This is not a toll-free number.)

Catalog. The Catalog of Federal Domestic Assistance Program number is 14.164.

Dated: December 22, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 94–846 Filed 1–12–94; 8:45 am]

BILLING CODE 4210–27–P

federal register

Thursday
January 13, 1994

Part VI

Department of the Interior

Bureau of Indian Affairs

Wind River Irrigation Project O&M Rate Increase, Wyoming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[K00464-94-12210-241.A]

Wind River Irrigation Project O&M Rate Increase, Wyoming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Rate Change.

SUMMARY: The Bureau of Indian Affairs published in the **Federal Register** on Thursday, June 3, 1993, 58 FR 31644 a proposal to increase the Wind River Irrigation Project's current operation and maintenance assessment rate of $10.90 per assessable acre to $12.00 per acre per year. The Wind River Irrigation Project received no adverse comments concerning the proposed rate increase during the 30-day comment period.

The Wind River Irrigation Project's new operation and maintenance assessment rate for the 1994 irrigation season and subsequent irrigation seasons will be $12.00 per acre per year.

DATES: This final rate becomes effective on March 14, 1994.

ADDRESSES: This notice will be published and posted at the following locations:

U.S. Post Offices

Fort Washakie, Wyoming 82514,
Lander, Wyoming 82520, Riverton, Wyoming 82501.

Newspaper

Wyoming State Journal, Lander, WY 82520.
Riverton Ranger, Riverton, WY 82501.

Bureau of Indian Affairs

Wind River Agency, Fort Washakie, Wyoming 82514.

FOR FURTHER INFORMATION CONTACT: Superintendent, Wind River Agency, Bureau of Indian Affairs, Fort Washakie, Wyoming 82514, Telephone number (307) 332-7810.

SUPPLEMENTARY INFORMATION: This notice sets forth changes to the irrigation operation and maintenance charges for the Wind River Irrigation Project, Wyoming. These changes are made pursuant to the authority contained in the Act of April 4, 1910, c. 140, secs. 1 and 2 (36 Stat. 272), as amended, 25 U.S.C. 385; 25 CFR, 171.1.

This notice of rate change in the irrigation operation and maintenance rates is published under the authority delegated to the Commissioner of Indian Affairs and the Deputy Commissioner of Indian Affairs by the Secretary of the Interior in Secretarial Order 3150, Section 7b, and in accordance with the Code of Federal Regulations, Title 25, 171.1, which authorizes the Area Director to fix and announce irrigation operation and maintenance assessment rates for the Wind River Irrigation Project for calendar year 1994 and subsequent years.

Dated: December 15, 1993.

W.D. Babby,

Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 94-881 Filed 1-12-94; 8:45 am]

BILLING CODE 4310-02-P

Reader Aids

Federal Register

Vol. 59, No. 9

Thursday, January 13, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, and Federal Register finding aids.	202–275–1538, or 275–0920

FEDERAL REGISTER PAGES AND DATES, JANUARY

1–240.....3
241–498.....4
499–652.....5
653–946.....6
947–1262.....7
1263–1446.....10
1447–1616.....11
1617–1888.....12
1889–2280.....13

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6644.....1261
Executive Orders:
12864 (Amended by EO 12890).....499
12890.....499
Administrative Orders:
Memorandums:
January 1, 1994.....653
Presidential Determinations:
No. 94–7 of December 18, 1993.....1

5 CFR

1620.....1889

7 CFR

54.....1890
58.....1263
201.....655
210.....1890
215.....1890
220.....1890
253.....1447
254.....1447
322.....656
906.....1266, 1449, 1450
907.....241, 1268
908.....241, 1268
910.....1269
928.....1266
932.....1270
944.....1270
955.....1894
959.....1452
966.....1453
984.....1453
1106.....1273
1464.....1274
1710.....494
1773.....657
Proposed Rules:
51.....1490
701.....1293
723.....1493
1005.....1305
1007.....1305
1011.....1305
1030.....260
1046.....1305
1065.....260
1068.....260
1076.....260
1079.....260
1094.....1307

8 CFR

3.....1896
103.....1455, 1896
204.....501
212.....1467, 1992
214.....1455, 1468
223.....1455
223a.....1455
238.....1617
242.....1896
245a.....1470
248.....1455
264.....1455
292.....1455, 1896
Proposed Rules:
103.....1308, 1317
211.....1317
216.....1317
235.....1317
242.....1317

9 CFR

Proposed Rules:
Ch. III.....1499
318.....550
381.....551

10 CFR

20.....1900
26.....502
30.....1618
34.....1900
40.....1618
50.....1618
70.....1618
72.....1618
73.....661
Proposed Rules:
50.....979

12 CFR

1102.....1900
Proposed Rules:
230.....1921
960.....1323

13 CFR

Proposed Rules:
121.....1360

14 CFR

39.....3, 4, 507, 509, 511, 514, 1471, 1903, 1904, 1905, 1906, 1907, 1909, 1910, 1912, 1913
71.....662, 947, 1472 1619, 1620, 1621, 1623
97.....1623, 1625
121.....1780
125.....1780
135.....1780
Proposed Rules:
Ch. I.....31, 554, 1362
27.....554
29.....554
33.....703, 704, 984

39.....35, 265, 266, 555, 556, 1500, 1501, 1503, 1505, 1676
71.....706, 1677, 1679, 1680, 1681, 1683, 1684, 1686, 1687

15 CFR
295.....663
1180.....6
Proposed Rules:
990.....1062, 1189, 1190

16 CFR
305.....1626, 1627
453.....1592
500.....1862

17 CFR
30.....1915
239.....242
Proposed Rules:
1.....1506
30.....1506
33.....01506
190.....1506
201.....1509
202.....1509
229.....1509
240.....1509

18 CFR
161.....243
250.....243
284.....516
341.....12
342.....12
343.....12
344.....12
345.....12
347.....12
360.....12
361.....12
375.....12, 1917
385.....1628
Proposed Rules:
141.....1687, 1690
161.....268
250.....268
375.....1687
385.....1687
388.....1690

19 CFR
4.....1918
12.....110
102.....110
123.....1918
175.....1992
134.....110
356.....228
Proposed Rules:
4.....141
10.....141
12.....141
102.....141
134.....141
177.....141

20 CFR
404.....670, 1274, 1416, 1629
416.....1274, 1629
617.....906
621.....874
655.....874
Proposed Rules:
422.....1363

21 CFR
20.....350, 395, 531
100.....536
101.....350, 354, 378, 395, 423, 436
109.....1638
510.....01918, 1919
520.....1918, 1919
1308.....671
Proposed Rules:
101.....427

22 CFR
41.....1473

24 CFR
104.....1642
251.....1474
252.....1474
255.....1474
Proposed Rules:
945.....1244
960.....1244

25 CFR
23.....2248

26 CFR
1.....12, 947, 1476
602.....12
Proposed Rules:
1.....807, 1690

27 CFR
9.....537
Proposed Rules:
9.....1510

29 CFR
571.....1238
572.....1238
Proposed Rules:
65.....558
81.....37
545.....1240
550.....1240

29 CFR
504.....874
1650.....23
1915.....146
1926.....146
Proposed Rules:
2530.....1692

30 CFR
904.....540
914.....1919
Proposed Rules:
870.....278
886.....278
887.....278
888.....278
917.....1921

32 CFR
40a.....1645

33 CFR
2.....947
3.....947
100.....673
147.....674
165.....675, 676, 948, 949
Proposed Rules:
117.....986

34 CFR
319.....1651
429.....1651
462.....1418
472.....1418
674.....1651
682.....1651
685.....472

37 CFR
2.....256

38 CFR
4.....677
Proposed Rules:
3.....278

39 CFR
Proposed Rules:
111.....1512

40 CFR
13.....650
52.....1476, 1485
61.....542
63.....1992
180.....950, 951, 1652
260.....458
261.....458
271.....1275
305.....25
600.....677
799.....1992
Proposed Rules:
Ch. I.....1923
52.....278, 707, 988, 1513, 1693, 1695, 1698
55.....994
63.....1515
81.....707
131.....810
180.....1700, 1702, 1704
261.....709
300.....714
372.....1788
430.....1515
721.....38

41 CFR
105–57.....1277
201–17.....952
201–20.....952
Proposed Rules:
201–1.....39
201–3.....39
201–20.....39
201–39.....39

42 CFR
401.....108
405.....1278
410.....1278
412.....1654
413.....1278, 1654
414.....1278
421.....679
435.....1659
436.....1659
488.....108
489.....108
493.....682
Proposed Rules:
406.....714

43 CFR
4.....1486
Public Land Order:
6986.....108
7026.....1489
Proposed Rules:
403.....40
426.....997
3160.....718

44 CFR
10.....953

45 CFR
Proposed Rules:
2510.....1194
2513.....1194
2515.....1194
2516.....1194
2517.....1194
2518.....1194
2519.....1194
2520.....1194
2521.....1194
2522.....1194
2523.....1194
2524.....1194
2530.....1194
2531.....1194
2532.....1194
2540.....1194

46 CFR
501.....954
Proposed Rules:
67.....725
114.....1994
115.....1994
116.....1994
117.....1994
118.....1994
119.....1994
120.....1994
121.....1994
122.....1994
123.....1994
124.....1994
125.....1994
126.....1994
127.....1994
128.....1994
129.....1994
130.....1994
131.....1994
132.....1994
133.....1994
134.....1994
135.....1994
136.....1994
137.....1994
138.....1994
139.....1994
170.....1994
171.....1994
173.....1994
175.....1994
176.....1994
177.....1994
178.....1994
179.....1994
180.....1994

181.....1994
182.....1994
183.....1994
184.....1994
185.....1994
514.....1515
571.....1923
572.....1923
580.....1515
581.....1515

47 CFR

0.....542
1.....542
22.....1285
25.....1285
80.....1285
87.....1285
90.....1285
95.....1285
97.....542
99.....1285

Proposed Rules:

15.....280
73.....41, 42, 43, 44, 726, 1365, 1366
76.....1706
90.....280
97.....558

48 CFR

5.....544
14.....544
15.....544
17.....544
25.....544
52.....544
225.....1288
252.....1288

49 CFR

173.....1784
180.....1784
391.....1366
392.....1366
396.....1366

Proposed Rules:

393.....1706
571.....281

50 CFR

222.....440
227.....440
611.....685
625.....257
641.....966
642.....257
651.....26
663.....258, 685, 698
676.....701

Proposed Rules:

17.....44, 48, 53, 288, 852, 862, 869, 997

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

A cumulative list of Public Laws for the first session of the 103d Congress was published in Part IV of the **Federal Register** on January 3, 1994.

New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents **Publications** Order Form

Order Processing Code:
*6962

Charge your order. It's easy!

To fax your orders and inquiries–(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)

Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog–Bestselling Government Books	FREE	FREE
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents

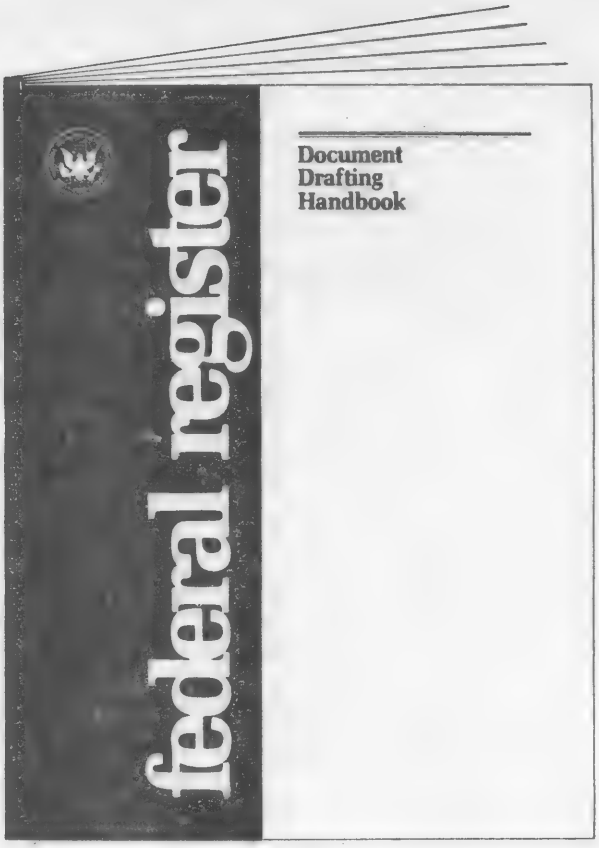
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date) ***Thank you for your order!***

(Signature)



Federal Register Document Drafting Handbook

A Handbook for Regulation Drafters

This handbook is designed to help Federal agencies prepare documents for publication in the Federal Register. The updated requirements in the handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

Price $5.50

Superintendent of Documents Publication Order Form

Order processing code: *6133

Charge your order. It's easy!

To fax your orders and inquiries–(202) 512-2250

☐ **YES,** please send me the following indicated publications:

_____ copies of **DOCUMENT DRAFTING HANDBOOK at $5.50 each.** S/N 069-000-00037-1

1. The total cost of my order is $_____ Foreign orders please add an additional 25%. All prices include regular domestic postage and handling and are subject to change.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

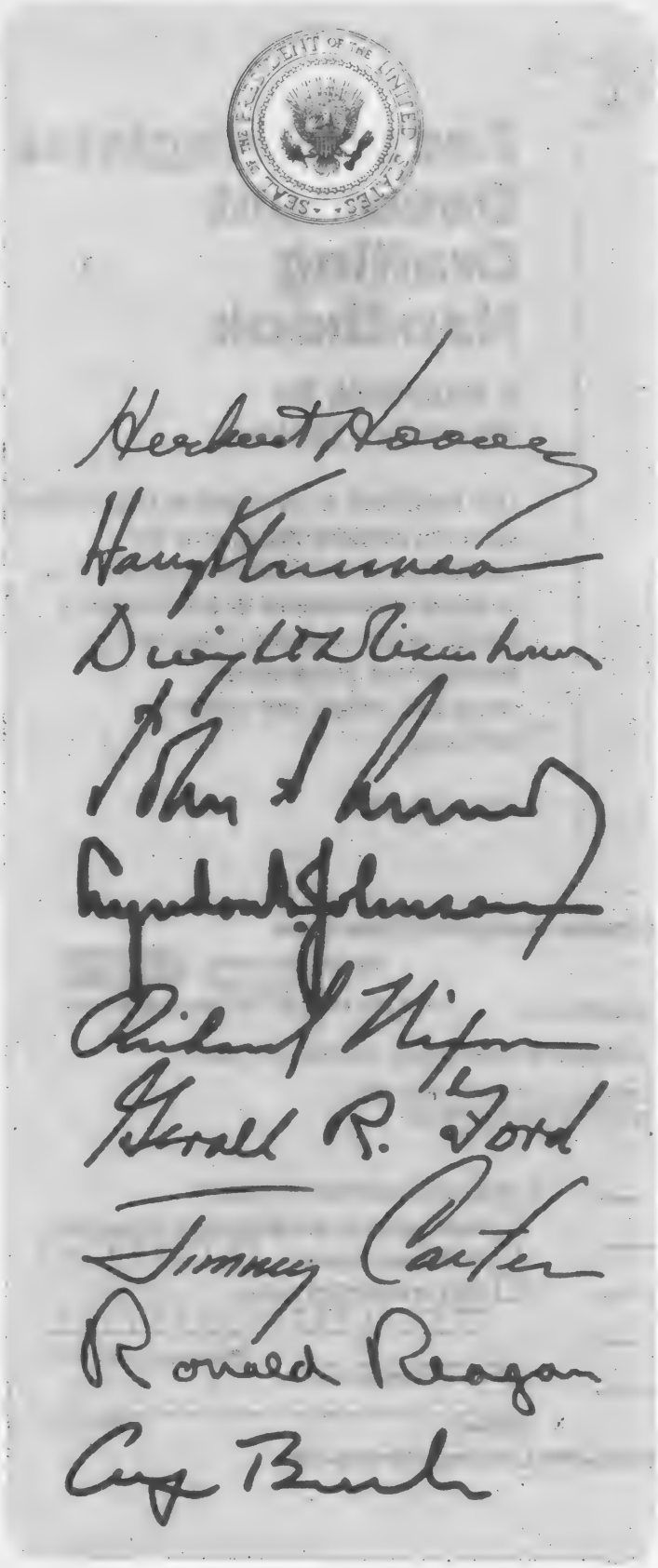
_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(Rev 12/91)

4. **Mail To:** New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Ronald Reagan

1983
(Book I) $31.00

1983
(Book II) $32.00

1984
(Book I) $36.00

1984
(Book II) $36.00

1985
(Book I) $34.00

1985
(Book II) $30.00

1986
(Book I) $37.00

1986
(Book II) $35.00

1987
(Book I) $33.00

1987
(Book II) $35.00

1988
(Book I) $39.00

1988–89
(Book II) $38.00

George Bush

1989
(Book I) $38.00

1989
(Book II) $40.00

1990
(Book I) $41.00

1990
(Book II) $41.00

1991
(Book I) $41.00

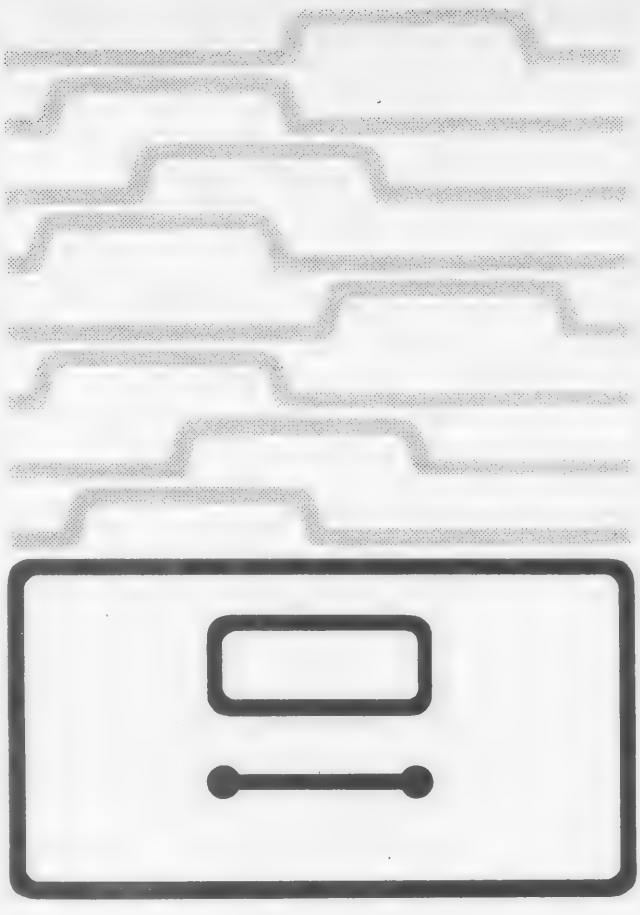
1991
(Book II) $44.00

1992
(Book I) $47.00

Published by the Office of the Federal Register National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

(Rev. 7/93)



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

SUPPLEMENT: Revised January 1, 1993

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Publications** Order Form

Order Processing Code:

*

P3

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512-2250

☐ **YES**, please send me the following:

_____copies of the 1992 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR S/N 069-000-00046-1 at $15.00 each.

_____copies of the 1993 SUPPLEMENT TO THE GUIDE, S/N 069-001-00052-1 at $4.50 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

_____
(Company or Personal Name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

_____
(Daytime phone including area code)

_____
(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
(Authorizing Signature) (5/93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Order Now!

The United States Government Manual 1993/94

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$30.00 per copy

Superintendent of Documents **Publications** Order Form

Order Processing Code:
* **6395**

Charge your order. It's easy! MasterCard VISA

To fax your orders (202) 512–2250

☐ **YES,** please send me _____ copies of the **The United States Government Manual, 1993/94** S/N 069–000–00053–3 at $30.00 ($37.50 foreign) each.

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change.

_____
(Company or personal name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, Zip code)

_____
(Daytime phone including area code)

_____
(Purchase order no.)

Please choose method of payment:

❑ Check payable to the Superintendent of Documents

❑ GPO Deposit Account ☐☐☐☐☐☐☐–☐

❑ VISA ❑ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
(Authorizing signature) (Rev 9/93)

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Printed on recycled paper